

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HONORABLE STANLEY BLUMENFELD, JR., U.S. DISTRICT JUDGE

## SANTA CLARITA VALLEY WATER AGENCY,

**CASE NO.**

**PLAINTIFF,**

CV 18-06825-SB

vs.

WHITTAKER CORPORATION, et al.,

## **VOLUME 6**

**DEFENDANTS.**

**VOLUME 6**  
**PAGES 618 TO 687**

REPORTER'S TRANSCRIPT OF  
TRIAL DAY 3  
FRIDAY, NOVEMBER 19, 2021  
1:07 P.M.  
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MIRANDA ALGORRI, CSR 12743, RPR, CRR

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M T B A N D A A T G O R B T @ G M A I L . C O M

1 APPEARANCES OF COUNSEL:

2  
3 FOR THE PLAINTIFF:

4 NOSSAMAN, LLP  
5 BY: BYRON P. GEE  
6 BY: RAVEN MCGUANE  
7 BY: PATRICK J. RICHARD  
8 BY: FRED FUDACZ  
9 777 South Figueroa Street  
10 34th Floor  
11 Los Angeles, California 90017

12  
13 NOSSAMAN, LLP  
14 BY: ILSE CHANDALAR SCOTT  
15 50 California Street  
16 34th Floor  
17 San Francisco, California 94111

18 FOR THE DEFENDANTS:

19 EDLIN GALLAGHER HUIE & BLUM  
20 BY: MICHAEL E. GALLAGHER, JR.  
21 BY: FRED M. BLUM  
22 BY: DANIEL ERIC TROWBRIDGE  
23 500 Washington Street  
24 Suite 700  
25 San Francisco, California 94111

18 ALSO PRESENT:

19 Matt Stone  
20 Scott Fryer  
21 Ron Beaton  
22 Eric Lardiere

1  
2  
3 **INDEX OF WITNESSES**

	<b>WITNESSES</b>	<b>PAGE</b>
4	HUGHTO, PH.D., Richard	
5	Cross-examination resumed by Mr. Blum	622
6	Redirect examination by Mr. Richard	664
7	Recross-examination by Mr. Blum	672
8	Further redirect examination by Mr. Richard	679
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

## **INDEX OF EXHIBITS**

			FOR IDENTIFICATION PG.	FOR EVIDENCE PG.
	NUMBER	DESCRIPTION		
4	1	Imminent and Substantial Endangerment Order	659	659
5	203	Procedures for Disposal Of Hazardous Materials	628	628
7	221	USEPA Letter	652	652
8	225	Whittaker Inspection Report	673	673
9	420	Zoch Expert Report	420	
10	486	Consent Order	656	656
11	1381	Determination of Violation	669	669
12	1427	Report	647	647
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

**FRIDAY, NOVEMBER 19, 2021; 1:07 P.M.**

## LOS ANGELES, CALIFORNIA

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(The following proceedings were held in open court in the presence of the jury:)

7 THE COURT: We are back on the record in  
8 Santa Clarita Valley Water Agency versus Whittaker Corporation  
9 with all present who were present before the break including  
0 Dr. Hughto who is on the witness stand still under oath.

11 Do you understand that, sir?

12 THE WITNESS: I do.

13 THE COURT: We are in cross-examination.

14 Mr. Blum, you may continue whenever you're ready.

RICHARD HUGHTO, PH.D.,

16 CALLED BY THE PLAINTIFF, WAS PREVIOUSLY SWORN.

17 | **CROSS-EXAMINATION (RESUMED)**

18 BY MR. BLUM:

19 Q Mr. Hughto, are you ready to go?

01:07PM 20 A I'm ready.

21 Q Doctor, I want to back up a little bit on some  
22 just general issues.

23 In the work you've done in the past, you have  
24 worked on other perchlorate sites; correct?

01:07PM 25 A I have worked on other perchlorate sites over the

1 years.

2 Q And at least one of them, the perchlorate at the  
3 site was at least all or partially the result of the  
4 manufacturing of fireworks; correct?

01:07PM 5 A It was a location called the fireworks site. My  
6 recollection -- it's been a while since I looked at the  
7 records, but my recollection is it was -- I don't know for sure  
8 that maybe some small percentage was other types of  
9 manufacturing. But it was primarily the fireworks site.

01:08PM 10 Q The accelerant that shoots the fireworks in the  
11 air is perchlorate; right?

12 A It's an ingredient in the propellant.

13 Q You have also worked at perchlorate sites which  
14 resulted from blasting manufacturing of explosives for oil  
01:08PM 15 fields?

16 A It wasn't for an oil field. It was -- it was  
17 blasting rock during the construction of a highway.

18 Q Okay. Now, in terms of -- you've also worked on  
19 sites that had volatile organic compounds in it; correct?

01:08PM 20 A Yes, I have.

21 Q And the sources of these VOCs have been various;  
22 correct?

23 A I have seen many different types of sources of  
24 VOCs over the years.

01:08PM 25 Q One of them -- one of the sources you've seen are

1 degreasers; correct?

2 A I've seen sources from degreasers and many  
3 different types of releases from degreasers.

01:09PM 4 Q Generally, how are degreasers a source of VOC  
5 contamination?

6 A It's the degreaser operation as a whole that  
7 could become a source. First you have the solvent brought into  
8 the facility and stored before it even gets to the degreaser.  
9 There could be mishandling or releases during those processes.

01:09PM 10 There could be releases during the loading of the chemical, the  
11 degreasing solvent into the degreasing machine.

12 There could be releases during the course of the  
13 operation of the machine like I described for the extruding  
14 site that I worked on where the vapors were not all captured  
15 and escaped the machine and the solvent condensed and went into  
16 the ground. There could be leaks from pipes. There could be  
17 overfills of reservoirs.

18 There could be releases when the -- when the  
19 vaporized degreasing solvent is recondensed to be reused, it  
01:09PM 20 has some water it. Some degreasing units have water separators  
21 to separate the water from the solvent so you can reuse the  
22 solvent. So there could be releases as a result of that  
23 operation. There could be -- there's disposal of the sludge  
24 that I have described earlier. There's disposal of the water  
01:10PM 25 from the separation process that -- and there are more. A lot

1 of ways a degreasing operation can lead to release in the  
2 environment.

3 Q Is there any document that you've seen that shows  
4 that Whittaker in particular disposed of any sludge from the  
01:10PM 5 degreaser onsite?

6 A I looked -- that was something I specifically  
7 looked for actually looking through the documents is some  
8 mention of the -- of the degreasing sludge, and the reason I  
9 was looking for it is those very high concentrations I talked  
01:10PM 10 about in the burn area earlier today. It looked like the  
11 sludge could have been the source of that. But I've seen no  
12 documentation of where the sludge from the degreasers went.

13 Q And the source --

14 A Whether it was manifested onsite, managed onsite,  
01:11PM 15 burned onsite, what was done with it I don't know.

16 Q And the source in the Burn Valley could have been  
17 something other than sludge; correct?

18 A There could have been other things. They could  
19 have dumped barrels of waste solvent or not waste solvent as  
01:11PM 20 pure solvent -- that could have resulted in that kind of a  
21 concentration.

22 Q But these are all guesses because you really  
23 don't know what the source is; correct?

24 A Because there's no documentation of the different  
01:11PM 25 potential sources than -- those are just hypothetical types of

1 situations that could have led to the situation that was  
2 documented in the data.

3 Q But to be fair, you're not saying there's no  
4 documentation. You're saying you've seen no documentation?

01:11PM 5 A I'm saying that I have not seen documentation  
6 what happened with that sludge.

7 Q All right. What's a water separator as it  
8 relates to a degreaser?

9 A Water separator is a -- I started to describe it  
01:11PM 10 as -- as it relates to a degreaser, when the solvent is  
11 vaporized in a vapor degreaser, it's -- it becomes a vapor  
12 which is air. And then, in order to be able to reuse it, it's  
13 condensed, brought back into a liquid form. There would be  
14 some water because the air -- because when the -- when it  
01:12PM 15 becomes a vapor in the air, it mixes with the air, and there's  
16 a lot of water in the air. So it becomes a mixture of the  
17 solvent and water that gets condensed.

18 The idea of separating is, like I said earlier,  
19 to recover the solvent to reuse it and get the water out of it  
01:12PM 20 because water is a bad degreaser.

21 Q Is it also --

22 A So it's to remove the -- it's to separate the  
23 water from the solvent to be able to reuse the solvent.

24 Q And the water then is put down the sewer system  
01:12PM 25 or at least it was in the past?

1           A        There are situations where it goes into a sewer  
2        system, and then there are other methods of handling.

01:13PM

3           Q        Is one of the reasons why you want to separate  
4        the water from the solvent is because TCE is expensive and you  
5        don't want to waste it?

01:13PM

6           A        That would be a reason for recovering it. Like I  
7        said, water is a lousy -- a lousy solvent. So -- for  
8        degreasing purposes anyway. So you want to have the degreasing  
9        solvent be as pure a solution as you can so it -- so that you

10       might be able to reuse it, and cost is a consideration.

11           Q        Now, you also have experience in dealing with  
12        VOCs at sites in which the VOCs were caused by leaks from dry  
13        cleaners; correct?

14           A        Releases of dry cleaning facilities, yes.

01:13PM

15           Q        That's very -- it's not a rare instance in  
16        today's environmental community finding VOCs connected with dry  
17        cleaners; is it?

01:13PM

18           A        It is not unusual if you're studying a dry  
19        cleaner or former dry cleaning location to find that there had  
20        been VOC releases.

21           Q        Is it also because the dry cleaning units  
22        sometimes use water separators?

23           A        If it's the whole process that was involved.  
24        Separators are a component, are one type of release. But the  
25        releases I just discussed for vapor degreasers, many of those

1 would also apply as potential sources from a dry cleaning  
2 operation.

01:14PM 3 Q All right. Now, I want to -- okay. Let's move  
4 back to where we ended. If we could put up Exhibit 203,  
5 please, which is the procedure manual, specifically page 5 or  
6 .5.

7 (Marked for identification and received  
8 into evidence Exhibit No. 203.)

01:14PM 9 Q BY MR. BLUM: Now, the area we talked about deals  
10 with how things were to be burned at the site; correct?

11 A Okay. The title of the section is "Destruction  
12 by burning."

01:15PM 13 Q Now, did you review any documents that described  
14 the different alternatives that Whittaker might have had for  
15 destruction of perchlorate mandated by the Government?

16 A I did.

17 Q Was -- was Whittaker able to simply send the  
18 perchlorate to an offsite disposal facility?

01:15PM 19 A If we're thinking about the same alternative,  
20 there was an alternative for ocean dumping which was no longer  
21 allowed. There was an option for offsite shipping and an  
22 option for burning on the site. There may have been a fourth,  
23 but those are the ones I recall.

01:15PM 24 Q The offsite shipping was to specified locations;  
25 correct?

1           A        Well, they would have to be the permitted  
2 facilities like we had discussed earlier. If you're going to  
3 ship a waste somewhere, that that location has to have a permit  
4 and accept that waste.

01:15PM 5 Q So in your opinion, the contracts allowed  
6 Whittaker to send the perchlorate waste to any hazardous waste  
7 disposal facility?

8 A Now you're changing the question to a contract?

9 Q Well, under the contract with the Department of  
01:16PM 10 Defense, was Whittaker able to send waste perchlorate to any  
11 facility that was permitted to accept hazardous waste?

12 MR. RICHARD: Objection. Lacks foundation.

13 THE COURT: Sustained.

14 Q BY MR. BLUM: Do you know whether or not  
01:16PM 15 Whittaker was able to send perchlorate waste to any facility so  
16 long as it was permitted to receive the waste?

17 A Allowed by whom?

18 Q By the contract with the Department of Defense.

19 A First of all, I have not seen defense contracts.  
01:16PM 20 THE COURT: All right. You've answered the  
21 question.

22 Q BY MR. BLUM: All right. Did you read any  
23 documents of people who had seen contracts?

24 A I believe I have.

01:17PM 25 Q Isn't one of them both a declaration and a report

1 by somebody called Robert Zoch?

2 A I have seen Mr. Zoch's report and declaration.

3 Q And his report is something that you at least  
4 considered in this case; correct?

01:17PM 5 A I did consider his report.

6 Q All right. Now, the procedures that are outlined  
7 in the page that's up, which is 203.5, for the burning of waste  
8 such as perchlorate, were those actually followed?

9 A Is it -- when you say 203.5 is that -- I see.

01:17PM 10 It's blown up on the screen?

11 Q Correct.

12 A Is this the entire section that's blown up?

13 Q Well, why don't we go through the -- we'll just  
14 show the next two pages. Keep going.

01:18PM 15 Sitting here right now, do you have an opinion as  
16 to whether or not the procedures in the manual were followed  
17 for burning?

18 A I'd have to read them and consider what I know  
19 about the burning operation.

01:18PM 20 Q All right. You know what, let's go on then. I  
21 don't want to waste the time.

22 What did Mr. Zoch say about the procedures that  
23 were followed?

24 A The procedures that were followed for burning?

01:18PM 25 Q For burning, yes.

1 A I don't recall that detail from his report.

2 Q All right. If we can go to his -- if you take a  
3 look at Exhibit 420 that's in front of you, and it's not to be  
4 published --

01:18PM 5 (Marked for identification Exhibit No. 420.)

6 THE WITNESS: 420.

7 Q BY MR. BLUM: 420, yes.

8 A I have four binders that you have provided. One  
9 of them the first is 422, I think. One of them just says 411  
01:19PM 10 and 412. One that has a series that's all in the 1300 series.

11 MR. BLUM: Your Honor, may my paralegal show him  
12 where it is?

13 THE COURT: Yes. Do you have an extra copy of  
14 420?

01:20PM 15 MR. BLUM: I will move on to something else and  
16 come back while you find it.

17 THE COURT: That's fine.

18 Q BY MR. BLUM: All right. Let's talk about TCE.

19 Now, is it true, Dr. Hughto, that in the late  
01:20PM 20 1960s Whittaker switched from the use of TCE to TCA?

21 A Actually, I do not believe that is so.

22 Q Isn't that --

23 A By the way, you're talking about at the Bermite  
24 facility?

01:20PM 25 Q Yes.

1 A Okay.

2 Q Isn't that what you said in your report?

3 A I do not believe I said that in my report.

4 Q Okay. How about in your -- why don't we go to  
01:20PM 5 your deposition, page 83, line 7, through 84, line 8.

6 MR. RICHARD: Just a moment, please. That's  
7 fine.

8 THE WITNESS: There's nothing on the screen.

9 MR. BLUM: We're putting it now.

01:21PM 10 THE WITNESS: Okay.

11 MR. BLUM: It should be on the screen right now.

12 All right. Here we are.

13 Q Sir, do you see that?

14 A I do see that.

01:22PM 15 Q Didn't you testify on the date of your depo:

16 "Question: On page 4 of the report,

17 it says, Whittaker initially changed from

18 TCE use to 1,1,1-trichloroethylene in the

19 late 1960s. What kind of uses are -- is

01:23PM 20 TCE used for -- or what is TCE used for

21 generally?

22 "You said what is it used for today?

23 "Yeah. What's it used for today?

24 Sure. Let's go with that.

01:23PM 25 "Answer: Not much.

6 "And in the -- in the -- in time --

7 19 -- sorry. Were you done?

16 Was that your testimony?

17 A That's what it says here on the transcript.

18 Q All right. Now, can you go to your report which  
19 is Exhibit 1305 at page 4.

01:24PM 20 Are you on page 4?

21 A I'm on page 4, yes.

22 Q Can you read the first sentence on page 4?

23 A The first sentence on page 4 begins on page 3.

24 Q All right.

01:24PM 25 A Is that the sentence you're talking about?

1 Q Yeah.

2 A It reads, "Acton Mickelson," in parens, "1/1997  
3 reported that Whittaker initially changed from TCE use to  
4 1,1,1-trichloroethylene," in parens, "TCA in the late 1960s,  
5 while PCE was reported to continue to be used into the 1970s."

01:25PM 6 Q That's all.

7 Did you in any way say that you disagreed with  
8 that statement?

9 A When?

01:25PM 10 Q Anywhere in your report.

11 A I did not say that in the report.

12 Q But are you disagreeing with it now?

13 A I have looked for this document since I prepared  
14 this report. I disagree with that statement based on looking  
01:25PM 15 at other documents that I had looked at prior to that and I  
16 looked at subsequently.

17 Q When you say subsequently, do you mean subsequent  
18 to your deposition?

19 A Yes. I looked at documents subsequent to my  
01:25PM 20 deposition, but they were documents -- the timing was  
21 subsequent, but I had looked at documents earlier.

22 Q So do you recall specifically at your deposition  
23 being asked under oath whether you have agreed with that  
24 statement in your report?

01:26PM 25 A Are you talking about the part you just read?

1 Q No. A different part.

2 A I will have to see the transcript.

3 Q This will be page 98, lines 2 through 19.

01:26PM 4 MR. RICHARD: We would object, Your Honor, there  
5 hasn't been a foundation for a contradiction under the rules of  
6 evidence.

7 THE COURT: The objection is sustained. The  
8 Court doesn't find it as being impeachable.

9 Q BY MR. BLUM: When was TCA started?

01:27PM 10 A What do you mean TCA started?

11 Q When did -- was TCA ever used at the site?

12 A I believe it was.

13 Q When did they start?

14 A I believe TCA was -- they began to use TCA  
01:27PM 15 sometime in the 1980s.

16 Q Can you tell me the document that was on your  
17 list that you relied upon to reach that conclusion?

18 A There are -- I tried to recall, anticipating a  
19 question, I'm trying to recall which specific document. It  
01:27PM 20 refers to a request, I believe, for a waiver as part of one of  
21 the DOD contracts to use TCA in place of PCE which was being  
22 used prior to that time.

23 Q Right.

24 A When do you have any -- what document did you  
01:28PM 25 refer to -- let me ask it differently.

1                   When did they stop using TCE at the site?

2                   A         My understanding is that TCE was -- there was a  
3                   changeover to PCE as -- because of what was specified in a  
4                   proposal related to some manufacturing product, I believe, in  
01:28PM 5                   the mid 1970s. That would -- that would help define the  
6                   beginning of the PCE period. I'm not saying there is no  
7                   overlap where TCA was used and PCE wasn't in the facility at  
8                   the same time, but the PCE was introduced beginning in the  
9                   1970s.

01:28PM 10                  Q         And you've -- you had -- prior to your deposition  
11                  or your report, had you reviewed this document?

12                  A         Yes.

13                  Q         You just missed it? That part?

14                  A         Missed what?

01:29PM 15                  Q         In your deposition the prior time and in your  
16                  report, you don't talk about that. Did you just miss it when  
17                  you were reading it before the deposition or the report?

18                  A         Well, I did -- I did read it. I knew it was  
19                  there. I knew what it said. I did not write that down in the  
01:29PM 20                  report, but I reviewed tens of thousands of pages of stuff and  
21                  hundreds of documents that I didn't put into a 30-page report  
22                  either. So it -- it did not make it into the report.

23                  Q         Now, Dr. Hughto, you said you were aware or you  
24                  suspected that I was going to discuss this with you so you  
01:29PM 25                  tried to review the materials.

1                   A           I'm sorry. I misled you then. You asked one  
2 question, and when I said I was anticipating, I meant I was  
3 anticipating the next question. This wasn't a different day.

01:30PM 4                   Q           Why did you go back and review the history of TCA  
5 versus TCE use?

01:30PM 6                   A           I didn't specifically go back to review that. It  
7 was just something as I was rereading documents and looking  
8 at -- I don't recall the purpose I picked up any of the  
9 particular documents. But then it -- then I will call it

10 pieces of the puzzle started to come together for me defining  
11 this time period.

12                   Q           Did counsel for the plaintiff inform you that the  
13 defendants were arguing that the contamination couldn't be ours  
14 because we didn't use TCE?

01:30PM 15                   A           Could you repeat it, please?

16                   Q           Did counsel for the plaintiffs in any way, shape,  
17 or form inform you of words to the effect that the defendants  
18 were arguing or stating that the contamination in the wells  
19 couldn't be theirs because we did not use TCE?

01:31PM 20                   A           I need a little help on the details. You said  
21 the contamination in the wells?

22                   Q           Were you informed by plaintiff's counsel in any  
23 manner that the defendants were arguing that Whittaker could  
24 not be the source of contamination in plaintiff's groundwater  
25 wells because we did not use TCE?

1           A       Counsel did not in any way, shape, or form relate  
2 that argument to me.

3           Q       Were you aware of that?

4           A       Aware -- no. I'm not aware of it now.

01:31PM 5           Q       Okay. All right. Let's go back to Mr. Zoch. If  
6 you can turn to page -- first of all, who is Mr. Zoch?

7           A       Mr. Zoch I do not know personally, but he's a  
8 professional engineer -- I can tell by the title in his  
9 report -- who was an expert on behalf of certain insurance  
01:32PM 10          companies in litigation of Steadfast Insurance as subrogee or  
11 -gee, however you pronounce that, of Whittaker Corporation in a  
12 suit against the United States of America.

13          Q       All right. And, sir, you favorably relied on  
14 Mr. Zoch in your report, at least in one instance, to  
01:32PM 15 contradict the opinion of Whittaker's expert; correct?

16          A       Like I've said with many documents, I considered  
17 the documents by themselves and with the other documentation  
18 that I had and reviewed and rendered my opinions on that basis.

19          Q       Well, the question is, if you look at your  
01:33PM 20 rebuttal report which is Exhibit 1306 on page 2, don't you cite  
21 Mr. Zoch as a basis for contradicting the opinion of  
22 Whittaker's expert?

23          A       I think I see where you're referring to. I will  
24 just read the -- it's part of the paragraph.

01:34PM 25          Q       Please don't read it. The question is didn't you

1 rely on Mr. Zoch as a basis to contradict a statement made by  
2 Whittaker's expert?

3 A I used Mr. Zoch's report and my experience at  
4 quite a few sites where there was a transition from TCE to PCE  
01:34PM 5 and TCA as a basis for the statements made in that paragraph.

6 Q That's fine. Now, I want you to go back to  
7 Mr. Zoch's report and go to page 20 of the report. Tell me  
8 when you're there. Section 4.4.3?

9 A I'm there.

01:34PM 10 Q All right. Now, the first couple -- the title of  
11 the section is "Disposal of drum perchlorate waste."

12 Correct?

13 A Yes.

14 Q And doesn't Mr. Zoch conclude that under the  
01:35PM 15 terms of Bermite's contracts referencing the government's  
16 ordinance safety manual, perchlorate waste as well as other  
17 explosives and munitions production waste were required to be  
18 destroyed by burning?

19 Doesn't it say that?

01:35PM 20 A It does say that.

21 Q Do you have any reason to believe that the  
22 opinion of Mr. Zoch, which you considered, is incorrect?

23 A I have not seen the contracts that he's referring  
24 to or the ordinance safety manual that he's referring to. So I  
01:35PM 25 don't have a basis to agree or disagree.

1 Q Well, he saw and was able to review contracts  
2 that you never saw; correct?

3 A He's referring to contracts, and I have not seen  
4 any of the contracts.

01:35PM 5 Q But he saw contracts which you have not seen;  
6 correct?

7 THE COURT: The Court is going to sustain its own  
8 objection as lack of foundation. Please move on. It's also  
9 argumentative.

01:36PM 10 Q BY MR. BLUM: Did Mr. Zoch in his report refer to  
11 contracts that you have not seen?

12 A Mr. Zoch refers to a contract here. Contracts,  
13 plural. And I have not seen contracts -- at least contracts  
14 related to the materials being manufactured at the site.

01:36PM 15 Q All right. Mr. Zoch goes on to conclude, "A  
16 destruction location was established at the site for this  
17 purpose. In a remote area of the property referred to as the  
18 Burn Valley, two burn pits were established in accordance with  
19 minimum separation distance requirements, with the government  
01:36PM 20 safety manuals, and waste explosives pyrotechnic materials, and  
21 propellants were disposed of onsite by open burning."

22 MR. RICHARD: Your Honor, I hate to interrupt.  
23 We are now reading from a hearsay document that is not in  
24 evidence. I will object. Hearsay.

01:37PM 25 THE COURT: Sustained.

1 Q BY MR. BLUM: In relying on or considering  
2 Mr. Zoch's opinion, didn't Mr. Zoch conclude that the  
3 propellant, that perchlorate was burned in the burn area  
4 consistent with government regulations and requirements?

01:37PM 5 A Mr. Zoch in this paragraph, he does describe the  
6 burning -- the Burn Valley area where there were burn pits  
7 where explosives and other wastes were burned.

8 Q Consistent with government requirements?

9 A He references contracts that reference  
01:38PM 10 government's ordinance safety manual.

11 Q And he references that the burning took place  
12 consistent with those contracts?

13 A Well, he doesn't use the term consistent with his  
14 contract. That's what I'm looking at. "Under the terms of  
01:38PM 15 Bermite's contracts referencing the government's ordinance  
16 safety manual." And it goes on to describe the burning  
17 process.

18 Q Okay. All right.

19 Now, in terms of the Burn Valley, that is one of  
01:38PM 20 the major areas where contamination was found; correct?

21 A It is the area -- from the data that I reviewed,  
22 the many, many thousands of pages of data I reviewed, the  
23 highest concentrations of VOCs on the site.

24 Q And of those VOCs, isn't the overwhelming  
01:39PM 25 majority TCE?

1                   A        I'm not even sure it's the majority. It is not  
2 the overwhelming -- well, that's -- that would be something to  
3 be subject to sample-to-sample, for example. I referenced a  
4 specific sample in my report because of the extremely high  
01:39PM 5 concentrations. In that particular sample, I'm not remembering  
6 the exact numbers of TCE, maybe a majority, but it's not an  
7 overwhelming majority.

8                   Q        Right.

9                   A        We could look at the other hundreds of samples  
01:39PM 10 and see if it holds for those as well if you have the  
11 documents.

12                  Q        Now, Dr. Hughto, were government inspectors at  
13 the Whittaker site at the time Whittaker was performing under  
14 these government contracts?

01:39PM 15                  A        It's my understanding that there were government  
16 inspectors present at the facility at different points in time.

17                  Q        All right. And these inspectors, do you have  
18 knowledge of what they did?

19                  A        I saw descriptions. I think it was at least in  
01:40PM 20 some of the deposition testimony. They observed different  
21 operations and reviewed materials during the manufacturing  
22 process.

23                  Q        Did any of the depositions discuss the fact the  
24 inspectors also were there, for instance, at the burnings at  
01:40PM 25 the burn pit?

1           A        I believe I did see testimony relate that they  
2 did observe at least some of the burning.

3           Q        By the way, the burning, wasn't that also done  
4 under permits from the L.A. County Fire Department?

01:40PM 5           A        It was.

6           Q        And at some point, Whittaker lost their permits  
7 or lost the ability to burn at the site; correct?

8           A        That is true. I understand Bermite lost their  
9 permit at a point.

01:41PM 10          Q        Wasn't that the emergency that caused Whittaker  
11 to have to store drums of used perchlorate at the Hula Bowl?

12          A        I don't know that that's a fact.

13          Q        Well, when you said there was an emergency, you  
14 don't know what the emergency was; correct?

01:41PM 15          A        No. The author of that document did not specify  
16 what the emergency was. Just there's an emergency.

17          Q        So when you said the emergency, that you found it  
18 was unusual that there was an emergency because they had been  
19 doing this a long time, that was sheer speculation on your  
01:41PM 20 part, wasn't it?

21          A        Well, I don't think I can answer the question  
22 because I didn't say what you said I said.

23          Q        Well, do you recall what you said?

24                   THE COURT: Move on to your next question.

01:41PM 25          Q        BY MR. BLUM: Sir, did you read any documents

1 that discuss the fact that, after the permit was removed to  
2 burn, that Whittaker was having a very difficult time finding a  
3 place for the lawful disposal of the perchlorate waste?

4 A Could you repeat the question?

01:42PM 5 Q Did you -- do you see any documents that discuss  
6 that, after Whittaker could no longer burn the material in the  
7 Burn Valley, that it was -- had to store the perchlorate waste  
8 until it found a lawful spot to dispose of it?

9 A I believe I saw documentations to that effect. I  
01:42PM 10 couldn't cite what the document was.

11 Q And Whittaker was able to dispose of some of it  
12 at another military facility; correct?

13 A That's my understanding.

14 Q And Whittaker was also able to get a temporary  
01:42PM 15 permit from the fire department and the South Coast Air Quality  
16 Management Board to burn some of it; correct?

17 A I recall that they got a temporary permit. I'm  
18 not sure the issuing agencies.

19 Q And the issue was not resolved until Whittaker  
01:43PM 20 entered into a new agreement with the DOD, the Department of  
21 Defense, so that it could dispose it at other locations;  
22 correct?

23 A That I don't recall the details of.

24 Q All right. We're getting towards the end here.  
01:43PM 25 Let me just quickly -- were degreasers used at the facility in

1 the 1940s and 1950s?

2 A I believe so.

3 Q And in World War II, wasn't TCE used as part of  
4 the degreasing process?

01:43PM 5 A I believe it was.

6 Q And sumps --

7 A You said in World War II. You mean during  
8 World War II?

9 Q During World War II. The answer is they were;  
01:44PM 10 correct?

11 A It's my understanding that TCE was used as a  
12 degreaser at a facility during World War II.

13 Q And, sir, as an environmental professional, is  
14 the presence of a sump sort of a red flag as a place you would  
01:44PM 15 check if you're doing an environmental assessment?

16 A As I discussed yesterday, doing site assessments,  
17 I talked about looking for characteristics or parts of  
18 operations that could result in contamination and those be  
19 further investigated. A sump, generally speaking, would be one  
01:44PM 20 of those. Depends on the use of a sump, what it's there for  
21 and what it does.

22 Q How about sumps in relation to degreasers?

23 A If I were conducting an investigation -- site  
24 assessment investigation, if I saw a sump related to a  
01:44PM 25 degreaser, I would want to have further investigation

1 undertaken.

2 Q Now, sumps are -- a lot of times they're made of  
3 concrete; correct?

01:45PM 4 A They're many different types of materials. Some  
5 are concrete. Some are open holes. Some are plastic.

6 Different materials.

7 Q If we take concrete, concrete is really not a  
8 barrier to the VOCs, is it?

9 A It's not a complete barrier to VOCs.

01:45PM 10 Q Certainly dirt isn't.

11 A The degree to which dirt is a barrier depends on  
12 the characteristics of the dirt.

13 Q Were there sumps at the facility in 1962 or  
14 before?

01:45PM 15 A I'm trying to recall when the 317 and 342 area  
16 sumps were constructed, and I'm just not recalling as I sit  
17 here.

18 Q All right. Let's talk about Whittaker's --  
19 Whittaker and groundwater monitoring.

01:46PM 20 Under their interim status permit, was  
21 groundwater monitoring required?

22 A I don't believe that it was. It was required by  
23 the regulations, but I don't believe it was specified in that  
24 document.

01:46PM 25 MR. BLUM: All right. I'm sorry, Your Honor. I

1 just need to find something. If we can have Exhibit 1427,  
2 please.

3 (Marked for identification and received  
4 into evidence Exhibit No. 1427.)

01:46PM 5 Q BY MR. BLUM: This is the regional board document  
6 we discussed earlier. Again, if you can go to page 2.

7 A I don't believe I have a copy, so I will use the  
8 screen.

9 Q Okay. Now, were you aware that a closure plan  
01:47PM 10 for service impoundments was submitted by Whittaker to the  
11 Department of Health Services in September of 1983?

12 A I am aware of that.

13 Q And by the way, DOHS, that's the predecessor of  
14 the Department of Toxic Substances Control; correct?

01:47PM 15 A I'm not certain of that.

16 Q Do you have any reason to --

17 A The agencies change their names.

18 Q Do you have any reason to believe it's not true?

19 A I do not have a basis to believe it's not true.

01:47PM 20 Q Okay. And the next sentence talks about soil  
21 test results from samples obtained from below the surface  
22 impoundment showed no --

23 A I'm sorry. I'm not seeing where you're reading  
24 from.

01:47PM 25 Q Right -- the sentence after they talk about the

1 closure plan.

2 A What paragraph are you in? Last paragraph?

3 Q See where the soil test results?

4 A On the third line there?

01:48PM

5 Q Yeah.

6 A I see it.

7 Q Okay. Did you ever see those soil test results?

01:48PM

8 A I can't say, as I sit here, whether I've seen  
9 them or not. I have seen mention of them, but I just don't  
10 recall. This work that was done here, this closure type work  
11 was done without an approved closure plan, going back and forth  
12 with the agencies about closure plan and the inadequacy of  
13 monitoring. So I do not recall the specific sample results.

14 THE COURT: The jury is to disregard everything  
15 after "I can't say, as I sit here."

16 Q BY MR. BLUM: If you don't know -- if you don't  
17 remember you've seen them, does that mean they don't exist?

18 A If I have not seen something, that doesn't mean  
19 it doesn't exist.

01:49PM

20 Q All right. According to the regional board,  
21 didn't they conclude that no groundwater monitoring system at  
22 the facility is required for current ISD compliance?

23 A Could I take a look at the whole document? I'm  
24 recalling something about this document that further explains  
25 the sentence that you have isolated.

1 Q Okay. If you give us a moment, we will get you  
2 the document.

3 MR. BLUM: May Mr. Fryer approach, Your Honor?

4 THE COURT: Yes.

01:51PM 5 Q BY MR. BLUM: Do you have it before you now, sir?

6 A I do. The question?

7 Q Didn't the Regional Water Quality Control Board  
8 conclude in 1985 that no groundwater or monitoring system at  
9 the facility is required for current ISD compliance?

01:51PM 10 A That sentence -- you have read that sentence.

11 The reason I asked for the entire document, there's a form at  
12 the end of the document that --

13 MR. BLUM: Your Honor --

14 THE WITNESS: -- that is part of the basis for  
01:52PM 15 it.

16 THE COURT: If you can answer the question yes or  
17 no. If you can't, say I can't answer it yes or no.

18 THE WITNESS: Well, the sentence you read is on  
19 the page.

01:52PM 20 Q BY MR. BLUM: Do you have any reason to believe  
21 that that is not what -- never mind.

22 Now, didn't they go on to talk about the fact  
23 that they had sampled a well onsite?

24 A Do you want me to go from memory or pull it up?

01:52PM 25 Q You can go to just below that, a recent water

1 analysis.

2 THE COURT: The question is did they go on to  
3 state that they did well sampling analysis or that they had  
4 sampled a well onsite?

01:53PM 5 THE WITNESS: (Witness reviewing document.)

6 The highlighted sentence and the sentence above  
7 it do describe there was a sample collected from production  
8 well property.

9 Q BY MR. BLUM: And, finally, didn't the report  
01:53PM 10 conclude that, based on all the data, that the board wanted  
11 additional sampling; correct? That's the next page.

12 A The board -- it's recommended that groundwater  
13 from the facility's production well -- I'm assuming it's the  
14 production well referenced on the previous page -- should be  
01:54PM 15 analyzed for more parameters.

16 Q And isn't this the basis on which the 1985 result  
17 that found VOCs in the production wells, isn't this the  
18 evolution of that?

19 A Subsequent sampling in 1985 did show that there  
01:54PM 20 were organics in that production well.

21 Q And it was sampling done by the Regional Water  
22 Quality Control Board; correct?

23 A I believe that it was.

24 Q And after that, wasn't there then discussions  
01:54PM 25 between EPA and Whittaker in which there was an agreed order

1       entered into that would deal with the monitoring wells?

2           A        There was an order in 1986, I believe was the  
3        timing, that dealt with -- in part dealt with the monitoring  
4        wells.

01:55PM 5           Q        And now, in terms of the monitoring wells, is it  
6        important to understand with -- I guess it's called the  
7        geophysical conditions of the aquifers before you place a  
8        monitoring well?

01:55PM 9           A        What geophysical characteristics are you talking  
10      about?

11           Q        Well, you have to know which way groundwater  
12      flows, don't you?

13           A        That is more hydrology than geophysics. The  
14      geophysics threw me.

01:55PM 15          Q        But you need to know information about where the  
16      groundwater, where the aquifers are, what is the direction, and  
17      geophysical conditions like that; correct?

01:56PM 18          A        Again, those -- I wouldn't call those geophysical  
19      conditions. But the -- when you place a monitoring well,  
20      you're placing it for a purpose. And the purpose varies one  
21      well to the next. It is helpful to know which way groundwater  
22      flows. It's helpful to know the soil characteristics at  
23      different depths. However, if you haven't put a well in yet,  
24      this is your first well, you don't know those things  
01:56PM 25      necessarily. So you're putting the well in in part to

1 determine those things, and then you can use that information  
2 when you put in subsequent wells. That's why you put in more  
3 than one.

01:56PM 4 Q Didn't it, in the agreement with EPA, didn't EPA  
5 state that the priority should be -- for Whittaker should be on  
6 placing wells to determine the geophysical characteristics  
7 rather than actually monitoring for VOCs?

8 A I don't have that document committed to memory.

9 Q All right. If you can go to Exhibit 221 which is  
01:57PM 10 in as stipulated.

11 (Marked for identification and received  
12 into evidence Exhibit No. 221.)

13 Q BY MR. BLUM: Do you recall seeing this document,  
14 sir?

01:57PM 15 A I have seen that document.

16 Q All right. And what is it?

17 A It is a consent agreement and final order,  
18 Whittaker Corporation-Bermite division. It is written by the  
19 USEPA, and it is addressed to Mr. Louttit at  
01:57PM 20 Whittaker Corporation.

21 Q This is basically the cover letter that attaches  
22 the consent agreement; right?

23 A The consent agreement, yes.

24 Q And if you can go to page 3, the first full  
01:57PM 25 paragraph starts out about the hydrogeologic assessment.

1 A The first three words are the hydrogeologic  
2 assessment.

3 Q What is a hydrogeologic assessment?

01:58PM 4 A It is an assessment of the conditions that relate

5 to groundwater flow.

6 Q And didn't the EPA want Whittaker to do a  
7 hydrogeologic assessment before designing a monitoring plan?

8 A Was that in this paragraph?

9 Q If you could --

01:58PM 10 A Hydrogeologic assessment is part of a monitoring  
11 plan.

12 Q Can you go to the next paragraph, please, where  
13 it says, "We recognize"? Do you see that, sir? "We recognize  
14 that the groundwater monitoring plan will be preliminary in  
01:58PM 15 nature until the results of the hydrogeologic assessment are  
16 done. At that time a more detailed groundwater monitoring  
17 program will be designed. Since these investigations are more  
18 often an iterative process, it is appropriate to submit general  
19 information at this time on well design and development."

01:59PM 20 A Except for a few words, that's what's on the  
21 page.

22 Q So EPA wanted Whittaker to focus on designing the  
23 hydrogeologic conditions and then prepare a comprehensive  
24 monitoring plan; correct?

01:59PM 25 A It's all part of the same process here. It's an

01:59PM

1 iterative process. You begin by -- like I said, you apply  
2 whatever information you have in the hydrogeologic assessment.  
3 If you don't have any wells in the ground or you haven't done  
4 any subsurface investigation, you use the information that you  
5 have which could be called a hydrogeologic assessment, and then  
6 you build from there in this iterative process into building a  
7 plan for where you would put wells at what depth and other  
8 characteristics of the next step in this iterative process.

02:00PM

9 Q So it's not like you start -- you don't start  
10 with 200 wells, do you? You start with a few, and then you  
11 build.

12 A For what?

13 Q To get a full monitoring program.

14 A You're just talking about in general?

02:00PM

15 Q Yes. In general.

16 A Like it says here, the -- these are -- the  
17 hydrogeologic investigation for hydrogeology purposes, for  
18 contaminant migration purposes is an iterative process that  
19 builds. You collect some data. You learn, and you develop  
20 more data to more fully understand.

21 Q All right. I've just got a couple more  
22 questions. I have one on the Hula Bowl.

23 A Were fireworks found in the Hula Bowl?

24 Q I believe there was an observation of fireworks.

02:01PM

25 Q When were fireworks manufactured at the site?

1 A I don't recall the precise dates.

2 Q Weren't they manufactured prior to 1945?

3 A My recollection is that it was early in the  
4 manufacturing process here. Whether it's before '45 or some  
02:01PM 5 other year, I don't recall off the top of my head.

6 Q It was certainly before 1967, wasn't it?

7 A I believe that it was.

8 Q So let's go to the last issue, and I want to talk  
9 about the -- what we have been calling solid waste management  
02:01PM 10 units or SWMUs.

11 Now, the Whittaker site was divided into a number  
12 of solid waste management units; correct?

13 A There were a number of solid waste management  
14 units identified on the site.

02:01PM 15 Q All right. And -- I'm sorry. I'm just looking  
16 for the exhibit. If you can pull up 486, please.

17 486, this is the consent order that you discussed  
18 earlier with Mr. Richard; correct?

19 A Yes.

02:02PM 20 Q All right.

21 MR. RICHARD: Is this now going to be in  
22 evidence?

23 MR. BLUM: Your Honor, it's in evidence except  
24 for certain points that are -- my understanding, that's your  
02:02PM 25 ruling yesterday.

1 THE COURT: In any event, it is now received.

2 MR. RICHARD: Thank you, Your Honor.

3 (Marked for identification and received

4 into evidence Exhibit No. 486.)

02:02PM 5 Q BY MR. BLUM: If you can go to 486.11. I'm  
6 sorry.

7 This consent order, who was it entered into?

## 8 Between Whittaker and who?

9 A Could you go to the first page of it? That's a  
02:03PM 10 cover letter. The first page of the order.

11 Q It's a Department of Toxic Substances Control;  
12 correct?

13 A That's the author of the letter that's on the  
14 screen.

02:03PM 15 Q Well, technically it's the people of California;  
16 correct?

17 | THE COURT: Go ahead and ask another question.

18 Q BY MR. BLUM: Sir, this was done, what, in 1994;  
19 correct?

02:03PM 20 A This letter was written November 21, 1994.

21 Q And that's the date of the consent order;  
22 correct?

23 A That's the date of this letter that I believe is  
24 transmitting the consent order.

02:03PM 25 THE COURT: He doesn't have the document fully

1 before him. If you want to just go to the signature page, for  
2 example, or wherever else that information might be found.

3 MR. BLUM: I will do that, Your Honor. Thank  
4 you.

02:04PM 5 Q Page 486.46. What was the date of the signature?

6 A There are two signatures here. The chief of site  
7 mitigation branch at the DTSC signed it on November 21 of 1994,  
8 and Mr. Louttit of Whittaker signed it on November 15th of  
9 1994.

02:04PM 10 Q All right. Now, if we can go back to page 11.  
11 Do you see section 2.3.2.3?

12 A I see it.

13 Q Sir, is it correct that, as of the date of this  
14 agreement, the closure plan has been implemented for all of the  
02:05PM 15 hazardous waste management units?

16 A It says that.

17 Q Do you have any reason to believe that's not  
18 true?

19 A I don't know which closure plan or which  
02:05PM 20 hazardous waste management units are being discussed. So I  
21 don't know whether the plan has been implemented or not.

22 Q Well, doesn't it say for all? So all of the  
23 SWMUs there been a closure plan implemented.

24 A And I don't know if somewhere else in this  
02:05PM 25 document it says this relates to only these solid waste

1 management units. I don't know what it refers to.

2 Q But this is a document, by the way, that you  
3 considered; correct?

02:05PM 4 A By the way, it says hazardous waste management  
5 units, not solid waste management units. It is a document  
6 that --

7 Q Doesn't it go on to say that 13 of the 14 units  
8 were certified closed by the department?

9 A It does say that.

02:06PM 10 Q What does "certified closed" mean?

11 A Usually there's a closure document that's  
12 submitted to the government, and that document is -- would be  
13 certified by a professional engineer or someone else authorized  
14 to certify it. This says by the department. Often that's done  
02:06PM 15 by the private sector, but apparently it says here somebody at  
16 the department did it.

17 Q Doesn't that mean that the Department of  
18 Substances Control were satisfied that, of the 14 hazardous  
19 waste management units, 13 of them had been properly cleaned to  
02:06PM 20 the satisfaction of the State of California?

21 A What it says is 13 of the 14 units were certified  
22 closed by the department. It is my understanding that that is  
23 the Department of Toxic Substances Control and, if true, that  
24 they certified them as closed.

02:07PM 25 Q And does that mean there's nothing more to do on

1 them by Whittaker?

2 A There are -- I have had experience more than once  
3 that something has been given a no further action letter or  
4 been determined to be closed by a government agency and had  
02:07PM 5 been reopened for one purpose or another. That is not  
6 addressed in these few lines you gave me here, so I can't tell  
7 you it means nothing else needs to be done. There could be  
8 post-closure monitoring which is not unusual that, after  
9 something is closed, that the groundwater has to be monitored  
02:07PM 10 for some period of time in order to ensure that the closure was  
11 effective. That could have been a condition.

12 Q Did you review any documents that said that  
13 post-closure of these units, that they were ever reopened?

14 A I don't know what the 13 units are, so I can't  
02:08PM 15 say one way or the other.

16 Q Last document -- and this is fast, and then we're  
17 done -- is Exhibit 1 which is the ISE, the imminent and  
18 substantial endangerment order.

19 (Marked for identification and received  
02:08PM 20 into evidence Exhibit No. 1.)

21 Q BY MR. BLUM: Now, this is a document you have  
22 also relied upon; correct?

23 A I have a leaky cup up here.

24 Q You asked if it is a document I considered?

02:08PM 25 Q Yes.

1 A It is.

2 Q Now, this document advises who the parties are;  
3 correct?

4 A Yes.

02:09PM 5 Q All right. Now -- sorry.

6 Now, if you could take a look at Exhibit 1.4.  
7 Tell me when you're there.

8 A It's page 4 of the document; correct?

9 Q Yes. And section 1.3 under status.

02:09PM 10 A I see that.

11 Q Does the document define who the current owner  
12 and operator of the site was as of 2002?

13 THE COURT: You said 2002?

14 MR. BLUM: Yes, sir.

02:10PM 15 THE COURT: Thank you.

16 THE WITNESS: My answer is it does.

17 Q BY MR. BLUM: Who was it?

18 A It was Santa Clarita, LLC.

19 Q Okay. And this was the company that purchased  
02:10PM 20 the property from Whittaker; correct?

21 A It says here that the -- it was sold. Whittaker  
22 sold it to Santa Clarita, LLC.

23 Q Okay. So at the time in 2002, do you understand  
24 what the status was of SCLLC?

02:10PM 25 A Status in what way?

1 Q Do you know whether or not they declared --  
2 recently declared bankruptcy?

3 A I do not know whether they declared bankruptcy or  
4 not.

02:10PM 5 Q Well, do you know whether or not the fact that  
6 they couldn't keep cleaning up the site was the reason why the  
7 ISE was issued to Whittaker?

8 A I don't know what the motivation of the  
9 government was. I know Whittaker was a PRP. By selling the  
02:11PM 10 property, they're still a PRP in my experience. I don't know  
11 that the financial status of Santa Clarita, LLC, had anything  
12 to do with why Whittaker became a party to this order.

13 Q So this -- so this order could have had nothing  
14 to do with the failure of Whittaker to do anything; correct?

02:11PM 15 A I don't understand the question.

16 Q Well, you stated to the jury that the reason that  
17 the order was significant to you is because it implied that  
18 Whittaker wasn't following through with what they were  
19 obligated to do at the site, didn't you?

02:11PM 20 A I didn't say those words.

21 Q But that was the gist of what you meant.

22 A I will tell you what I meant. There have been a  
23 series of orders -- there was. I'm sorry. There was a series  
24 of orders at the site including the one in the mid '90s that  
02:12PM 25 had many of the same requirements as this one in '02. It was

02:12PM

1 pursuant to this one. And the one in '02, pursuant to that,  
2 the work -- the RIFS and remediation work was conducted by  
3 Whittaker and his consultants. Similar activities were  
4 included in the order in the mid '90s but were not completed to  
5 the degree -- completed pursuant to this order.

6 Q Dr. Hughto, did this order have to do with  
7 Whittaker being out of compliance or SCLLC being out of  
8 compliance?

02:13PM

9 A I believe I said a little while ago that my  
10 experience in a situation like this, once a PRP, you're always  
11 a PRP. The fact they sold the property, they still were owner  
12 and operator for -- prior owner and operator and identified by  
13 the government agencies as a PRP.

02:13PM

14 Q Can you go to page 6, section 2.2? About four  
15 lines down starting "On or about January 25."

16 Isn't that correct, Dr. Hughto, that the reason  
17 the litigation was initiated by the state that resulted in this  
18 order was because SCLLC was out of compliance with the  
19 February 14, 2001, enforceable agreement?

02:14PM

20 A It states in this highlighted section -- and I  
21 haven't read any other context to it that -- the  
22 Attorney General's Office noted -- notified SCLLC and the  
23 respondent, who would be Whittaker, that because -- that  
24 because Santa Clarita, LLC, was out of compliance with the  
25 February 14, '01 enforceable agreement, the state would

1 institute litigation. And the --

2 Q Not because --

3 A It lists the things they were going to be looking  
4 to recover in the litigation.

02:15PM 5 Q It wasn't because of anything Whittaker did. It  
6 was because of SCLLC not being in compliance that this  
7 agreement was entered into; correct?

8 A I wouldn't agree with that, and the reason is  
9 that Whittaker is responsible for the waste being in the  
02:15PM 10 ground. So the whole reason there is an agreement is because  
11 there's waste in the ground. The part of the reason for this  
12 agreement is that SCLLC wasn't -- was out of compliance, but  
13 they were out of compliance because they were dealing with  
14 someone else's contamination.

02:15PM 15 Q Sir, after the ISC -- didn't -- didn't Whittaker  
16 after this agreement -- after the action against SCLLC was  
17 instituted, step back in and finish remediating the site?

18 A You asked if Whittaker did?

19 Q Yes.

02:16PM 20 A I think I testified earlier that, after this  
21 order, Whittaker brought in CDM Smith and did more thorough  
22 investigations and remediation to the site.

23 Q And hasn't Whittaker received certain clean  
24 closure orders or orders from the State that have allowed them  
02:16PM 25 to cease a lot of the cleanup operations because they have been

1 completed as of today?

2 A I don't know if they're -- if they're -- you  
3 called them orders? Clean closure orders? Required no further  
4 action orders?

02:16PM 5 Q Let me rephrase it.

6 Hasn't Whittaker received notifications from DTSC  
7 that they believed that much of the remediation onsite has been  
8 completed to the State of California's satisfaction?

9 A They have received notifications that they have  
02:17PM 10 completed certain aspects of the remediation.

11 MR. BLUM: Thank you.

12 THE WITNESS: You're welcome. Thank you.

13 THE COURT: Redirect?

14 MR. RICHARD: Just a bit, Your Honor. Thank you.

02:17PM 15 **REDIRECT EXAMINATION**

16 BY MR. RICHARD:

17 Q I'd like to begin by going back to Exhibit 1427,  
18 this document from 1985. This is --

19 A It's just coming up on the screen?

02:18PM 20 Q Yes.

21 Can we go ahead and put that up on the screen?  
22 Do you have it?

23 A I have it on the screen, yes.

24 Q Great. You were asked -- this is the document  
02:18PM 25 from the California Regional Water Control Board -- Water

02:18PM

1 Quality Control Board in 1985 that counsel just asked you about  
2 in connection with groundwater monitoring. And the phrase he  
3 used was, after the board had reviewed all of the data, and I  
4 sensed you wanted to say something about the last page, the  
5 appendix. So can you turn to the last page, Appendix A-1 of  
6 this exhibit?

7 Do you have that there?

8 A Yes.

02:19PM

9 Q There's a reference to, right in the middle, type  
10 of facility. Do you see a reference to surface impoundment,  
11 landfill, and the rest?

12 A I do.

02:19PM

13 Q My question is nothing from the Regional Water  
14 Quality Control Board refers to the fact that Whittaker knew  
15 that its surface impoundment at Building 317 had leaks and  
16 overflow problems three years earlier, does it?

17 A It does not.

02:19PM

18 Q And did you see any evidence at all, any  
19 documents, that indicate that Whittaker ever shared with the  
20 Regional Water Quality Control Board, the memo that it had,  
21 that study from Mr. Bean three years earlier, describing the  
22 problems at the impoundment?

23 A I've never seen documentation that the Bean memo  
24 was provided to the regulatory agencies.

02:20PM

25 Q And that surface impoundment, that was closed

1 without the participation of Alan Sorsher and other folks at  
2 DTSC; is that right?

3 A That's my understanding.

4 Q If we could just briefly look at Exhibit 25  
02:20PM 5 again. This is the memo three years earlier where Whittaker  
6 was discussing the need or possibility of groundwater  
7 monitoring. Not to take you through all of it again, but this  
8 is the memo that describes the overflow and the fact that the  
9 impoundment was used for uses it wasn't originally intended for  
02:21PM 10 and --

11 MR. BLUM: Objection, Your Honor. Counsel is  
12 testifying.

13 MR. RICHARD: I will rephrase.

14 THE COURT: That's okay. I allowed you or you  
02:21PM 15 did a lot of just reading from the documents. Especially given  
16 the amount of time that we have left and for speed, I'm going  
17 to allow you to summarize as to -- as opposed to asking whether  
18 he relied upon it.

19 MR. RICHARD: Thank you.

20 Q Again, for each of these problems that Mr. Bean  
21 went in through in some detail about the impoundment leaking  
22 and overflowing and having hazardous waste water released, was  
23 any of that information disclosed to the Regional Water Quality  
24 Control Board before Whittaker closed that impoundment without  
02:21PM 25 the participation or knowledge of the State?

1 THE COURT: Based on the information that you  
2 had.

3 THE WITNESS: Not that I'm aware of from the  
4 information I have received.

02:21PM 5 Q BY MR. RICHARD: And nothing in the exhibit that  
6 Mr. Blum spent some time with you reviewing that letter from  
7 the California Regional Water Quality Control Board in 1985  
8 made any reference to either the Bean memo or the facts  
9 regarding the problems with the sump in the Bean memo; is that  
10 right?

11 A That's correct.

12 Q And one of the other topics we spent some time,  
13 Mr. Blum asked you about, I think before our lunch break, had  
14 to do with manifests for hazardous wastes.

02:22PM 15 Do you recall that discussion?

16 A I do.

17 Q And he talked about those would be done in  
18 multiple copies and there could be tax ramifications and that  
19 entire general discussion.

02:22PM 20 Do you recall that?

21 A I do.

22 Q And for manifest documentation, in your  
23 experience, does it typically identify the identity of the  
24 permitted entity that receives the hazardous waste?

02:22PM 25 A It identifies it and a representative of that

1 facility signs the form, the manifest form.

2 Q And is that important?

3 A It's important because it's a document that has  
4 importance, and it is this whole cradle-to-grave concept. It  
02:23PM 5 documents that the waste arrived at the facility where it was  
6 supposed to have its, I'll call, final resting place.

7 Q And so this idea that somehow the manifest that  
8 you haven't seen would tell us what happened, was Whittaker  
9 ever cited for deficient documentation of its manifest?

02:23PM 10 A Yes, it was.

11 Q And do you have Exhibit 1381 handy, sir, this  
12 citation from June 4th -- I don't think we can publish it yet.  
13 June 4th, 1986.

14 A I do have it.

02:23PM 15 MR. RICHARD: Okay. Your Honor --

16 Q And if you could turn to Count 9. Can you tell  
17 us, in general, what Count 9 refers to?

18 A There's a subtitle under the words "Count 9"  
19 manifest. It describes how generators are -- requires  
02:24PM 20 generators to designate on the manifest the name of the  
21 facility which is to be permitted to handle the hazardous  
22 waste. The second paragraph says that, "On or about  
23 June 25th, 1985, during the inspection of the facility, the EPA  
24 inspector observed the manifest and lists the numbers of five  
02:24PM 25 manifests. Did not specify the name of the facility to be

1       permitted to handle the hazardous waste."

2           Q        So when the EPA came and inspected Whittaker's  
3       records and they looked at the manifest, the manifest did not  
4       have the name -- and they list several manifests there -- did  
02:25PM 5       not have the name of the facility to be permitted to handle the  
6       hazardous waste?

7           A        That's correct. That's what this says.

8                    MR. RICHARD: Your Honor, we would move 1381 into  
9       evidence.

02:25PM 10           THE COURT: Received.

11                    (Marked for identification and received  
12       into evidence Exhibit No. 1381.)

13                    MR. RICHARD: Thank you. If we can pull up  
14       Exhibit 445, the mystery memo.

02:25PM 15           Q        You were asked a number of questions about  
16       whether the various steps for a site investigation in 1987 were  
17       generally appropriate. What I wanted to ask you is this is a  
18       document that refers to hazardous waste in landfills at  
19       Whittaker.

02:25PM 20           Do you recall that?

21           A        I do.

22           Q        Did Whittaker provide this to the EPA in this  
23       memo or this information in 1987?

24           A        My understanding is that it did not.

02:26PM 25           Q        And if you could look at what is in evidence as,

1 I believe, Exhibit 501 from yesterday, you were just shown some  
2 records regarding a Gordon Louttit. So we are looking at an  
3 August 25th, 1988, letter that includes a certification under  
4 penalty of perjury that the information is correct.

02:26PM 5 Do you see that at page 2 of Exhibit 501?

6 A I do.

7 Q So this is a letter from Whittaker signed by one  
8 of its executives to the USEPA; is that correct?

9 A Yes.

02:27PM 10 Q The Environmental Protection Agency that you were  
11 asked some questions about a few minutes ago. This is  
12 documentation reports solid waste management units.

13 Do you see that at page 3 of the document?

14 A I don't have a hard copy here in front of me.

02:27PM 15 Q Can you go to page 3?

16 A Yes. The title is documentation report solid  
17 waste management units.

18 Q Okay. Remind us, again, what is a solid waste  
19 management unit?

02:27PM 20 A It is an area component of a site in which waste  
21 was handled and/or managed.

22 Q Okay. So in response to questions from the  
23 USEPA, Whittaker writes and identifies at the next page,  
24 page 4, units which were present at the facility, and you see  
02:28PM 25 landfill referenced as the first type of unit?

1 A I do.

2 Q Then there's a reference to attachment table 2.1.

3 Can you go to page 6 of the document? Do you  
4 have page 6? There you go.

02:28PM 5 My question, sir, is did you see anywhere in this  
6 document that Whittaker in 1988, over a year after the mystery  
7 memo we talked about from June 1987, any reference that  
8 Whittaker was telling the EPA about the hazardous substances in  
9 its landfills?

02:28PM 10 A Are you talking about the hazardous substances  
11 and hazardous wastes documented in the memo?

12 Q Yes, sir.

13 A I have not seen documentation that those -- that  
14 that memo was provided to the agencies.

02:29PM 15 Q But here we do have a memo provided to the  
16 agency, to the United States Environmental Protection Agency  
17 from Whittaker under penalty of perjury; correct?

18 A Yes.

19 Q And here under the question of are materials  
02:29PM 20 considered hazardous, the response was what?

21 A Demolition and general trash, wood, scrap metal,  
22 plastic parts, paper scrap.

23 Q No discussion or disclosure in this particular  
24 document to the United States EPA that, as identified in the  
02:29PM 25 Whittaker memo that we talked about, the mystery memo, that not

1 only were there hazardous waste discovered in various land  
2 fills but that their consultant was recommending further  
3 investigation at that time. We don't see that in this  
4 disclosure, do we?

02:30PM 5 A I do not see it here.

6 MR. RICHARD: So I think that's all I have.

7 Thank you so much, sir.

8 THE WITNESS: You're welcome.

9 THE COURT: Recross?

02:30PM 10 MR. BLUM: Yes, Your Honor.

11 **RECROSS-EXAMINATION**

12 BY MR. BLUM:

13 Q If we could -- the consent order or the complaint  
14 from the regulators dealing with manifests, that was in 1986;  
02:31PM 15 correct?

16 A You're talking about the document that  
17 Mr. Patrick just asked me questions about?

18 Q Yeah. Pretty much at the beginning of the  
19 redirect.

02:31PM 20 A Well, it's dated -- the cover letter is June 4th  
21 of '86.

22 Q So the mystery memo deals with what will happen  
23 in 1987; correct?

24 A Well, the mystery memo was dated in 1987. I  
02:31PM 25 would have to look at it to see if it documented when those --

1 the excavations and the investigations of the landfills was  
2 undertaken.

3 Q Okay. Now, were you aware that there was an  
4 inspection done of the Whittaker site by the Department of  
02:31PM 5 Health Services which was the predecessor to DTSC in 1988? I'm  
6 sorry. 1989.

7 A I have seen documentation of different  
8 inspections. I'm not remembering the dates. But I've seen  
9 documentation of inspections.

02:32PM 10 MR. BLUM: Can you bring up Exhibit 225.1? I'm  
11 sorry. 225.

12 THE COURT: Is this an agreed-upon document?

13 MR. BLUM: Yes, sir. Sorry, Your Honor. Yes, it  
14 is.

02:32PM 15 (Marked for identification and received  
16 into evidence Exhibit No. 225.)

17 Q BY MR. BLUM: This is something you also  
18 considered in reaching your opinions, isn't it?

19 A Was there a question?

02:32PM 20 Q This is on your list of documents you reviewed;  
21 correct?

22 A I believe it was. It is.

23 Q All right. If you can go to page -- I believe  
24 it's .6 or the sixth page.

02:33PM 25 Now, didn't Whittaker provide for inspection to

1 the DTSC or the DOHS personnel manifest from 1986, 1987, and  
2 1988?

3 A I see. It says the facility provided for review  
4 the manifests for 1986, 1987, and 1988.

02:33PM 5 Q And they were found to be adequately maintained;  
6 correct?

7 A That's correct. That says that.

8 Q And if the generator's name was not on the  
9 manifest, they would not have been adequately maintained, would  
02:33PM 10 they?

11 A Well, maintenance is different from completing  
12 the form. You mentioned generator, and the earlier reference  
13 to lack of a signature was not by a generator. It's by a  
14 receiving facility.

02:34PM 15 Q Isn't -- the receiving facility isn't Whittaker,  
16 is it? Whittaker would be the generator, wouldn't they?

17 A Yes.

18 Q All right. So I want to get some terms right so  
19 the jury can understand it.

02:34PM 20 A lot of different people have to sign the  
21 manifests; correct?

22 A I wouldn't call it a lot, but there's a chain of  
23 people that have to execute the manifest depending on how many  
24 people are in custody of the waste.

02:34PM 25 Q So the generator is the party that generates the

1 waste; correct?

2 A That's correct.

3 Q And waste from the Hula Bowl, that would have  
4 been, assuming there was hazardous waste, that would have been

02:34PM 5 Whittaker; correct?

6 A What would have been Whittaker?

7 Q Whittaker would have been the generator since  
8 they own the property on which the hazardous waste may have  
9 been taken from; is that correct?

02:34PM 10 A Again, are you talking about the Hula Bowl?

11 Q Yes.

12 A If hazardous waste was taken from the Hula Bowl  
13 and disposed offsite, it's my opinion that Whittaker would have  
14 been the generator.

02:35PM 15 Q If they hire a transporter, the transporter has  
16 to sign it also; correct?

17 A Correct.

18 Q And when they deposit it at the legal disposal  
19 site, the party that receives it also has to sign it; is that  
02:35PM 20 correct?

21 A That is correct.

22 Q And the signatures that were missing were from  
23 the party that got the waste, not from Whittaker; correct?

24 MR. RICHARD: Objection. Misstates the document  
02:35PM 25 and the testimony.

1 Q BY MR. BLUM: Is it your understanding that the  
2 signatures that were missing were from the party that received  
3 the waste rather than from the generator which would have been  
4 Whittaker?

02:35PM 5 A It is my understanding is the missing signatures  
6 that are cited in that document were of the receiving facility.

7 Q So Whittaker did what they needed to do. It was  
8 somebody else who messed up?

9 A I can't tell you what Whittaker did. I can just  
02:35PM 10 tell you what the document says. It was missing signatures  
11 from the receiving facility.

12 Q Last thing. Can we go to Exhibit 501? This  
13 was -- the date of the first page, this was in 1988; correct?

14 A The date is August 25th, 1988.

02:36PM 15 Q Eight years before the consent decree that we  
16 discussed?

17 A Approximately.

18 Q All right. And doesn't this document talk about  
19 the waste that was present at the time in -- that they knew  
02:36PM 20 about in 1988?

21 A You're asking --

22 Q Well --

23 A What are you asking?

24 Q Go to page 501.6. When we talked about the  
02:37PM 25 mystery -- 1987 memo, didn't it say in the memo that the wastes

1 that were hazardous were disposed of offsite?

2 A I believe there was reference to hazardous --

3 wastes determined to be hazardous waste were disposed offsite.

4 Q So in 1988, a year later, isn't that correct that  
02:37PM 5 Whittaker could have properly and straightforwardly represented  
6 that they -- that at the current time there was no hazardous  
7 waste?

8 A I don't know that they had done a sufficient  
9 investigation of what was left behind --

02:37PM 10 Q Do you know if they didn't?

11 A -- to determine that it was not. To answer your  
12 question correctly, you would need to know what was left behind  
13 after what they took away. My understanding of what was taken  
14 away was material that was identified to be a hazardous waste.  
02:38PM 15 That doesn't mean they left -- they didn't leave behind stuff  
16 that was hazardous waste but they didn't identify it to be  
17 such.

18 Q Or they didn't know it.

19 A They -- if they did what they said and they  
02:38PM 20 removed everything they determined to be hazardous waste, they  
21 didn't know what was -- they didn't know they left any  
22 hazardous waste behind.

23 Q Sir, because you don't know the information, you  
24 can't say to any reasonable scientific certainty that the  
02:38PM 25 representations in 501 were not correct, can you?

1 A What's the 501?

2 Q Well, the description of materials were  
3 demolition and general trash, wood, scrap, metal, plastic  
4 parts, paper and scrap. You can't say that Whittaker at that  
02:38PM 5 time knew there was anything but those things at the site, can  
6 you?

7 A All I know from this document is what's written  
8 here, and that's what someone put on the page for what was  
9 observed.

02:38PM 10 Q And you can't testify that anything in here was  
11 knowingly wrong -- stated as knowingly wrong by Whittaker, can  
12 you?

13 A Further down the page it says -- under corrective  
14 action, it says demolition materials, et cetera, have been  
02:39PM 15 removed.

16 Q Is that wrong?

17 A I can't tell you. I just know that someone  
18 stated that.

19 MR. BLUM: That's it.

02:39PM 20 MR. RICHARD: Your Honor, may I just have one  
21 question?

22 THE COURT: Yes.

23 MR. RICHARD: Thank you, Your Honor.

24 ///

02:39PM 25 ///

## **FURTHER REDIRECT EXAMINATION**

2 | BY MR. RICHARD:

3 Q If we could go to page 2 of the mystery memo.

4 Again, this is the memo you understand, even though it's dated  
02:39PM 5 1987, wasn't provided to Mr. Sorsher until 1991; is that  
6 correct?

7 A That's my understanding.

8 Q And at the time that this memo was prepared, if  
9 you look at page 2, in terms of whether Whittaker had completed  
02:39PM 10 their investigation and removed hazardous substance -- all  
11 hazardous substances, do you see the reference right in the  
12 middle of the page, "The procedures tabulated information and  
13 results"? Do you see that paragraph?

14 A I do.

02:40PM 15 Q Can you read the second sentence of that  
16 paragraph?

17                   A               The known -- "The known investigated landfill  
18 sites have not been removed total" -- I'm sorry. Let me start  
19 again.

02:40PM 20 "The known investigated landfill sites that have  
21 not been removed total approximately 90,000 cubic yards."

22 Q And you understand that this memo described not  
23 only known landfill sites but other landfills that had not yet  
24 been investigated?

02:40PM 25 A That's correct.

1 Q Based on your review of the data of the amount of  
2 hazardous material and waste removed after 2002, do you have an  
3 opinion as to whether all hazardous waste had been removed as  
4 of 1988?

02:40PM 5 A I don't think that that -- we could draw that  
6 opinion because all the landfills hadn't been investigated yet.

7 Q In other words, were they -- was Whittaker still  
8 removing hazardous substances from the site after 2002?

9 A That's correct.

02:41PM 10 Q And that's the stuff you told us about in the  
11 CDM Smith reports?

12 A Yes.

13 MR. RICHARD: I think that's all I have,  
14 Your Honor. Thank you very much.

02:41PM 15 MR. BLUM: Nothing, Your Honor.

16 THE COURT: You're excused. Please watch your  
17 step going down.

18 Ladies and gentlemen, we have now concluded for  
19 the day, and the good news is the weekend is upon you. So  
02:41PM 20 please remember do not speak about the case, the people, or the  
21 subject matter involved. Continue to keep an open mind, and  
22 please do have a very nice and safe and healthy weekend.

23 Thank you.

24 (The following proceedings were held in  
02:42PM 25 open court outside the presence of the jury:)

1                   THE COURT: Please be seated. We remain on the  
2 record outside the presence of the jury.

3                   You are excused, doctor. Thank you.

02:42PM 4                   I did want to just spend a few minutes -- one  
5 moment, please. Let's try to make this fairly brief.

6                   With regard to the bench trial, I did give you,  
7 Mr. Blum, overnight to reflect and tell me what you have  
8 concluded.

9                   02:43PM MR. BLUM: Your Honor, first, the challenge is to  
10 use my imagination. The scenarios I was coming up with were  
11 actually -- some of them were actually very far out.

12                   THE COURT: Maybe it would be easier if you head  
13 to the lectern given that that's a little bit higher and maybe  
14 a little bit easier for you.

02:43PM 15                   MR. BLUM: Your Honor, if the evidentiary rulings  
16 you made stay the same, which I'm assuming we can talk about  
17 other sources which we have and we're allowed to talk about  
18 what was found at the turnouts, which we have, if those don't  
19 change, the only witnesses that I would anticipate are the two  
02:43PM 20 we have already discussed.

21                   THE COURT: All right. And when is your witness  
22 going to be available? I will speak with Mr. Richard in a  
23 moment. But I would like to hear from them next week.

24                   02:44PM MR. BLUM: Then I will make sure they're  
25 available next week, Your Honor.

1                   THE COURT: All right. And remind me -- I'm not  
2 recalling your witness off the top of my head.

3                   MR. BLUM: Mr. Masard.

4                   THE COURT: Thank you, Mr. Blum.

02:44PM 5                   Let me hear from you, Mr. Richard. You had  
6 mentioned that your witness had some health issues.

7                   MR. RICHARD: Yes. He was in the hospital today  
8 for a procedure. I haven't had the opportunity to see how it  
9 went. Our anticipation, he would be available Monday. We  
02:44PM 10 should be able to confirm that today or tomorrow and notify the  
11 Court. That would be our expectation that he would be  
12 available Monday.

13                   THE COURT: All right. So you should plan on his  
14 testifying on Monday, and then how much time are you  
02:44PM 15 anticipating with him?

16                   MR. RICHARD: I don't remember if we said an hour  
17 or hour and a half.

18                   MR. GEE: More like an hour and a half.

19                   MR. RICHARD: More like an hour and a half.

02:44PM 20                   THE COURT: That is for direct or everything?

21                   MR. RICHARD: I really think that would be  
22 everything because direct would be about an hour with him.

23                   THE COURT: Do you have a sense as to how much  
24 time you will need on cross-examination, Mr. Blum?

02:45PM 25                   MR. BLUM: Your Honor, there's not much. I would

1 say a half hour would be more than adequate unless he goes to a  
2 place I don't anticipate.

02:45PM

3 THE COURT: All right. Then why don't we just  
4 have -- we will just have him on Monday, and then we can have  
5 the defense witness on Tuesday.

6 MR. BLUM: I will talk to Mr. Mesard, and I will  
7 do -- I will make sure he is available on Tuesday.

02:45PM

8 THE COURT: All right. And anticipate that we  
9 will start up at 2:30. We may need a break, but figure they  
10 need to be here at 2:30.

11 All right. And one last item and that has to do  
12 with the Court's procedure for disclosing witnesses and  
13 exhibits for those witnesses, particularly the challenged  
14 exhibits.

02:46PM

15 I believe I -- that we have -- or I have been  
16 advised that we only have through Monday. We have Trudell,  
17 Stanin. I know we have, I believe, the video testimony that is  
18 going to occur. And then I have M-a-n-s-a-d-a. So tell me,  
19 Mr. Richard, what witnesses do I have and through when? I told  
20 you what I think we have, and -- but I also want you to confirm  
21 that and also tell me whether that's only through Monday.

22 MR. RICHARD: I would be shocked if we got  
23 through Ms. Stanin, Dr. Trudell, our Peloquin video. That's  
24 probably going to take most of Monday and Tuesday, Your Honor.  
25 We have identified the ten exhibits. I don't believe any of

02:47PM

1 those are in dispute. There's a little bit of slippage for the  
2 meet and confer, frankly. So we have identified the exhibits  
3 we expect to use with Dr. Najm. I haven't had a chance to  
4 check my e-mail for further meet and confer on that. I would  
5 expect Dr. Najm to go Tuesday or Wednesday would be my best  
6 estimate.

7 THE COURT: I'm just going to remind the parties  
8 of the procedure that I set up and the potential consequences  
9 for the failure to satisfy it.

02:47PM

10 My interest and concern is to make sure that I  
11 have a day to actually look at whatever the disputes are so  
12 that I can then speak with you the following day, and the  
13 following day typically is going to be in the afternoon because  
14 I don't have much time in the morning.

02:47PM

15 So if that procedure is not being satisfied, what  
16 the parties can expect is one of two things. Either exclusion  
17 or more likely, if this is a lesser way of handling it, that  
18 you simply won't be able to either call the witness or use the  
19 exhibits that are challenged. Perhaps just the latter.

02:48PM

20 And I'm not going to -- I do not want to be  
21 placed in a position where I'm being pressed in the last minute  
22 to have to make decisions because the parties are sending me  
23 something early in the morning. That happens, but it really  
24 shouldn't happen in this case. This case has been around for a  
25 while, and I have set up a procedure that I think is fairly

1 designed to avoid it. So that's going to be the last I will  
2 say on that, and I think that is the only -- or the last item  
3 that the Court wanted to address this afternoon.

4 So unless there is anything further from either  
02:48PM 5 side, we will recess for the day on this matter.

6 MR. BLUM: Your Honor, there was also  
7 Mr. Lardiere who is on that list. That's another witness.

Is there anything further we need to address?

11 MR. RICHARD: My colleague wishes to address the  
12 Court, Your Honor.

13 THE COURT: Mr. Gee?

14 MR. GEE: While we're on the record, when I was  
02:49PM 15 presenting the testimony of Mr. Abercrombie, I didn't --  
16 Exhibit 497 was stipulated, published, and entered, but I did  
17 not provide the Court with the name of the exhibit which is the  
18 water supply portfolio graphic.

19 THE COURT: Very well. Thank you.

02:49PM 20 Anything else for the plaintiff before I ask  
21 Mr. Blum and we conclude?

22 MR. RICHARD: What a great high note to end on.  
23 No, Your Honor. Thank you.

24 THE COURT: All right. Mr. Blum?  
02:49PM 25 MR. BLUM: No, sir.

1                   THE COURT: Then we are in recess. Have a good  
2 weekend, everyone. Everyone is ordered back here at  
3 8:00 o'clock on Monday.

4                   MR. BLUM: Thank you, Your Honor.

02:50PM 5                   (Proceedings concluded at 2:50 p.m.)

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1 CERTIFICATE OF OFFICIAL REPORTER  
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5 I, MIRANDA ALGORRI, FEDERAL OFFICIAL REALTIME  
6 COURT REPORTER, IN AND FOR THE UNITED STATES DISTRICT COURT FOR  
7 THE CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY CERTIFY THAT  
8 PURSUANT TO SECTION 753, TITLE 28, UNITED STATES CODE THAT THE  
9 FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE  
10 STENOGRAPHICALLY REPORTED PROCEEDINGS HELD IN THE  
11 ABOVE-ENTITLED MATTER AND THAT THE TRANSCRIPT PAGE FORMAT IS IN  
12 CONFORMANCE WITH THE REGULATIONS OF THE JUDICIAL CONFERENCE OF  
13 THE UNITED STATES.

14

15 DATED THIS 20TH DAY OF NOVEMBER, 2021.

16

17

18 /S/ MIRANDA ALGORRI

19

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MIRANDA ALGORRI, CSR NO. 12743, CRR  
FEDERAL OFFICIAL COURT REPORTER

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<p>'</p> <p>'01 [1] - 662:25</p> <p>'02 [2] - 661:25, 662:1</p> <p>'45 [1] - 655:4</p> <p>'86 [1] - 672:21</p> <p>'90S [2] - 661:24, 662:4</p> <p>/</p> <p>/S [1] - 687:18</p> <p>1</p> <p>1 [3] - 621:4, 659:17, 659:20</p> <p>1,1,1-</p> <p>TRICHLOROETHYLENE [2] - 632:18, 634:4</p> <p>1.3 [1] - 660:9</p> <p>1.4 [1] - 660:6</p> <p>1/1997 [1] - 634:2</p> <p>11 [1] - 657:10</p> <p>12743 [2] - 618:23, 687:19</p> <p>13 [4] - 658:7, 658:19, 658:21, 659:14</p> <p>1300 [1] - 631:10</p> <p>1305 [1] - 633:19</p> <p>1306 [1] - 638:20</p> <p>1381 [4] - 621:11, 668:11, 669:8, 669:12</p> <p>14 [5] - 658:7, 658:18, 658:21, 662:19, 662:25</p> <p>1427 [4] - 621:12, 647:1, 647:4, 664:17</p> <p>15TH [1] - 657:8</p> <p>18-06825-SB [1] - 618:7</p> <p>19 [4] - 618:14, 622:1, 633:7, 635:3</p> <p>1940S [1] - 645:1</p> <p>1945 [1] - 655:2</p> <p>1950S [1] - 645:1</p> <p>1960S [4] - 631:20, 632:19, 633:9, 634:4</p> <p>1962 [1] - 646:13</p> <p>1967 [1] - 655:6</p> <p>1970S [3] - 634:5, 636:5, 636:9</p> <p>1980S [1] - 635:15</p> <p>1983 [1] - 647:11</p> <p>1985 [7] - 649:8, 650:16, 650:19, 664:18, 665:1, 667:7, 668:23</p> <p>1986 [5] - 651:2,</p>	<p>668:13, 672:14, 674:1, 674:4</p> <p><b>1987</b> [9] - 669:16, 669:23, 671:7, 672:23, 672:24, 674:1, 674:4, 676:25, 679:5</p> <p><b>1988</b> [10] - 670:3, 671:6, 673:5, 674:2, 674:4, 676:13, 676:14, 676:20, 677:4, 680:4</p> <p><b>EIST</b> [1] - 618:24</p> <p>2</p> <p>2 [6] - 635:3, 638:20, 647:6, 670:5, 679:3, 679:9</p> <p>2.1 [1] - 671:2</p> <p>2.2 [1] - 662:14</p> <p>2.3.2.3 [1] - 657:11</p> <p><b>20</b> [1] - 639:7</p> <p><b>200</b> [1] - 654:10</p> <p><b>2001</b> [1] - 662:19</p> <p><b>2002</b> [5] - 660:12, 660:13, 660:23, 680:2, 680:8</p> <p><b>2021</b> [3] - 618:14, 622:1, 687:15</p> <p><b>203</b> [3] - 621:5, 628:4, 628:8</p> <p><b>203.5</b> [2] - 630:7, 630:9</p> <p><b>20TH</b> [1] - 687:15</p> <p><b>21</b> [2] - 656:20, 657:7</p> <p><b>221</b> [3] - 621:7, 652:9, 652:12</p> <p><b>225</b> [3] - 621:8, 673:11, 673:16</p> <p><b>225.1</b> [1] - 673:10</p> <p><b>25</b> [2] - 662:15, 666:4</p> <p><b>25TH</b> [3] - 668:23, 670:3, 676:14</p> <p><b>28</b> [1] - 687:8</p> <p><b>2:30</b> [2] - 683:9, 683:10</p> <p><b>2:50</b> [1] - 686:5</p> <p>3</p> <p>3 [5] - 618:13, 633:23, 652:24, 670:13, 670:15</p>	<p><b>30-PAGE</b> [1] - 636:21</p> <p><b>317</b> [2] - 646:15, 665:15</p> <p><b>342</b> [1] - 646:15</p> <p><b>34TH</b> [2] - 619:7, 619:10</p> <p><b>350</b> [1] - 618:24</p> <p>4</p> <p>4 [8] - 632:16, 633:19, 633:20, 633:21, 633:22, 633:23, 660:8, 670:24</p> <p><b>4.4.3</b> [1] - 639:8</p> <p><b>411</b> [1] - 631:9</p> <p><b>412</b> [1] - 631:10</p> <p><b>420</b> [7] - 621:9, 631:3, 631:5, 631:6, 631:7, 631:14</p> <p><b>422</b> [1] - 631:9</p> <p><b>445</b> [1] - 669:14</p> <p><b>4455</b> [1] - 618:24</p> <p><b>486</b> [4] - 621:10, 655:16, 655:17, 656:4</p> <p><b>486.11</b> [1] - 656:5</p> <p><b>486.46</b> [1] - 657:5</p> <p><b>497</b> [1] - 685:16</p> <p><b>4TH</b> [3] - 668:12, 668:13, 672:20</p> <p>5</p> <p>5 [2] - 628:5, 628:6</p> <p><b>50</b> [1] - 619:10</p> <p><b>500</b> [1] - 619:15</p> <p><b>501</b> [5] - 670:1, 670:5, 676:12, 677:25, 678:1</p> <p><b>501.6</b> [1] - 676:24</p> <p>6</p> <p>6 [5] - 618:8, 662:14, 671:3, 671:4, 673:24</p> <p><b>618</b> [1] - 618:8</p> <p><b>622</b> [1] - 620:5</p> <p><b>628</b> [2] - 621:5</p> <p><b>647</b> [2] - 621:12</p> <p><b>652</b> [2] - 621:7</p> <p><b>656</b> [2] - 621:10</p> <p><b>659</b> [2] - 621:4</p> <p><b>664</b> [1] - 620:5</p> <p><b>669</b> [2] - 621:11</p> <p><b>672</b> [1] - 620:6</p> <p><b>673</b> [2] - 621:8</p> <p><b>679</b> [1] - 620:6</p> <p><b>687</b> [1] - 618:8</p>	<p>7</p> <p>7 [1] - 632:5</p> <p><b>700</b> [1] - 619:16</p> <p><b>753</b> [1] - 687:8</p> <p><b>777</b> [1] - 619:6</p> <p>8</p> <p>8 [1] - 632:5</p> <p><b>83</b> [1] - 632:5</p> <p><b>84</b> [1] - 632:5</p> <p><b>8:00</b> [1] - 686:3</p> <p>9</p> <p>9 [3] - 668:16, 668:17, 668:18</p> <p><b>90,000</b> [1] - 679:21</p> <p><b>90012</b> [1] - 618:25</p> <p><b>90017</b> [1] - 619:7</p> <p><b>94111</b> [2] - 619:11, 619:16</p> <p><b>98</b> [1] - 635:3</p> <p>A</p> <p><b>A-1</b> [1] - 665:5</p> <p><b>ABERCROMBIE</b> [1] - 685:15</p> <p><b>ABILITY</b> [1] - 643:7</p> <p><b>ABLE</b> [11] - 626:12, 626:23, 627:10, 628:17, 629:10, 629:15, 640:1, 644:14, 682:10, 684:18</p> <p><b>ABOVE</b> [1] - 687:11</p> <p><b>ABOVE-ENTITLED</b> [1] - 687:11</p> <p><b>ACCELERANT</b> [1] - 623:10</p> <p><b>ACCEPT</b> [2] - 629:4, 629:11</p> <p><b>ACCORDANCE</b> [1] - 640:18</p> <p><b>ACCORDING</b> [1] - 648:20</p> <p><b>ACTION</b> [4] - 659:3, 663:16, 664:4, 678:14</p> <p><b>ACTIVITIES</b> [1] - 662:3</p> <p><b>ACTON</b> [1] - 634:2</p> <p><b>ADDITIONAL</b> [1] - 650:11</p> <p><b>ADDRESS</b> [3] - 685:3, 685:10, 685:11</p> <p><b>ADDRESSED</b> [2] - 652:19, 659:6</p>	<p><b>ADEQUATE</b> [1] - 683:1</p> <p><b>ADEQUATELY</b> [2] - 674:5, 674:9</p> <p><b>ADVISED</b> [1] - 683:16</p> <p><b>ADVISES</b> [1] - 660:2</p> <p><b>AFTERNOON</b> [2] - 684:13, 685:3</p> <p><b>AGENCIES</b> [6] - 644:18, 647:17, 648:12, 662:13, 665:24, 671:14</p> <p><b>AGENCY</b> [3] - 622:8, 671:16</p> <p><b>AGENCY</b> [2] - 659:4, 671:16</p> <p><b>AGENCY</b> [1] - 618:5</p> <p><b>AGO</b> [2] - 662:9, 670:11</p> <p><b>AGREE</b> [2] - 639:25, 663:8</p> <p><b>AGREED</b> [3] - 634:23, 650:25, 673:12</p> <p><b>AGREED-UPON</b> [1] - 673:12</p> <p><b>AGREEMENT</b> [12] - 644:20, 652:4, 652:17, 652:22, 652:23, 657:14, 662:19, 662:25, 663:7, 663:10, 663:12, 663:16</p> <p><b>AHEAD</b> [2] - 656:17, 664:21</p> <p><b>AIR</b> [6] - 623:11, 626:12, 626:14, 626:15, 626:16</p> <p><b>AIR</b> [1] - 644:15</p> <p><b>AL</b> [1] - 618:8</p> <p><b>ALAN</b> [1] - 666:1</p> <p><b>ALGORRI</b> [4] - 618:23, 687:5, 687:18, 687:19</p> <p><b>ALLOW</b> [1] - 666:17</p> <p><b>ALLOWED</b> [6] - 628:21, 629:5, 629:17, 663:24, 666:14, 681:17</p> <p><b>ALSO</b> [1] - 619:18</p> <p><b>ALTERNATIVE</b> [3] - 628:19, 628:20, 633:5</p> <p><b>ALTERNATIVES</b> [2] - 628:14, 633:15</p> <p><b>AMERICA</b> [1] - 638:12</p> <p><b>AMOUNT</b> [2] - 666:16, 680:1</p> <p><b>ANALYSIS</b> [2] - 650:1, 650:3</p> <p><b>ANALYZED</b> [1] -</p>
---	---	--	---	--

650:15 <b>AND</b> [3] - 687:6, 687:9, 687:11 <b>ANGELES</b> [3] - 618:15, 618:25, 622:2 <b>ANGELES</b> [1] - 619:7 <b>ANSWER</b> [8] - 632:25, 633:2, 643:21, 645:9, 649:16, 649:17, 660:16, 677:11 <b>ANSWERED</b> [1] - 629:20 <b>ANTICIPATE</b> [3] - 681:19, 683:2, 683:8 <b>ANTICIPATING</b> [4] - 635:18, 637:2, 637:3, 682:15 <b>ANTICIPATION</b> [1] - 682:9 <b>ANYWAY</b> [1] - 627:8 <b>APPEARANCES</b> [1] - 619:1 <b>APPENDIX</b> [1] - 665:5 <b>APPENDIX</b> [1] - 665:5 <b>APPLY</b> [2] - 628:1, 654:1 <b>APPROACH</b> [1] - 649:3 <b>APPROPRIATE</b> [2] - 653:18, 669:17 <b>APPROVED</b> [1] - 648:11 <b>AQUIFERS</b> [2] - 651:7, 651:16 <b>AREA</b> [8] - 625:10, 628:9, 640:17, 641:3, 641:6, 641:21, 646:15, 670:20 <b>AREAS</b> [1] - 641:20 <b>ARGUING</b> [3] - 637:13, 637:18, 637:23 <b>ARGUMENT</b> [1] - 638:2 <b>ARGUMENTATIVE</b> [1] - 640:9 <b>ARRIVED</b> [1] - 668:5 <b>ASPECTS</b> [1] - 664:10 <b>ASSESSMENT</b> [11] - 645:15, 645:24, 652:25, 653:2, 653:3, 653:4, 653:7, 653:10, 653:15, 654:2, 654:5 <b>ASSESSMENTS</b> [1] - 645:16 <b>ASSUMING</b> [3] -	650:13, 675:4, 681:16 <b>ATTACHES</b> [1] - 652:21 <b>ATTACHMENT</b> [1] - 671:2 <b>ATTORNEY</b> [1] - 662:22 <b>AUGUST</b> [2] - 670:3, 676:14 <b>AUTHOR</b> [2] - 643:15, 656:13 <b>AUTHORIZED</b> [1] - 658:13 <b>AVAILABLE</b> [5] - 681:22, 681:25, 682:9, 682:12, 683:7 <b>AVOID</b> [1] - 685:1 <b>AWARE</b> [8] - 636:23, 638:3, 638:4, 647:9, 647:12, 667:3, 673:3	<b>BENCH</b> [1] - 681:6 <b>BERMITE</b> [3] - 631:23, 643:8, 652:18 <b>BERMITE'S</b> [2] - 639:15, 641:15 <b>BEST</b> [1] - 684:5 <b>BETWEEN</b> [2] - 650:25, 656:8 <b>BINDERS</b> [1] - 631:8 <b>BIT</b> [5] - 622:21, 664:14, 681:13, 681:14, 684:1 <b>BLASTING</b> [2] - 623:14, 623:17 <b>BLOWN</b> [2] - 630:10, 630:12 <b>BLUM</b> [10] - 620:5, 620:6, 622:14, 667:6, 667:13, 681:7, 682:4, 682:24, 685:21, 685:24 <b>BLUM</b> [51] - 619:13, 619:14, 622:18, 628:9, 629:14, 629:22, 631:7, 631:11, 631:15, 631:18, 632:9, 632:11, 635:9, 640:10, 641:1, 643:25, 646:25, 647:5, 648:16, 649:3, 649:5, 649:13, 649:20, 650:9, 652:13, 655:23, 656:5, 656:18, 657:3, 659:21, 660:14, 660:17, 664:11, 666:11, 672:10, 672:12, 673:10, 673:13, 673:17, 676:1, 678:19, 680:15, 681:9, 681:15, 681:24, 682:3, 682:25, 683:6, 685:6, 685:25, 686:4 <b>BEGAN</b> [1] - 635:14 <b>BEGIN</b> [2] - 654:1, 664:17 <b>BEGINNING</b> [3] - 636:6, 636:8, 672:18 <b>BEGINS</b> [1] - 633:23 <b>BEHALF</b> [1] - 638:9 <b>BEHIND</b> [4] - 677:9, 677:12, 677:15, 677:22 <b>BELOW</b> [2] - 647:21, 649:25	675:3, 675:10, 675:12 <b>BRANCH</b> [1] - 657:7 <b>BREAK</b> [3] - 622:9, 667:13, 683:9 <b>BRIEF</b> [1] - 681:5 <b>BRIEFLY</b> [1] - 666:4 <b>BRING</b> [1] - 673:10 <b>BROUGHT</b> [4] - 624:7, 626:13, 633:9, 663:21 <b>BUILD</b> [2] - 654:6, 654:11 <b>BUILDING</b> [1] - 665:15 <b>BUILDING</b> [1] - 654:6 <b>BUILDS</b> [1] - 654:19 <b>BURN</b> [9] - 625:10, 640:18, 641:3, 641:6, 642:25, 643:7, 644:2, 644:6, 644:16 <b>BURN</b> [5] - 625:16, 640:18, 641:6, 641:19, 644:7 <b>BURNED</b> [4] - 625:15, 628:10, 641:3, 641:7 <b>BURNING</b> [14] - 628:12, 628:22, 630:7, 630:17, 630:19, 630:24, 630:25, 639:18, 640:21, 641:6, 641:11, 641:16, 643:2, 643:3 <b>BURNINGS</b> [1] - 642:24 <b>BY</b> [35] - 619:4, 619:5, 619:5, 619:6, 619:9, 619:14, 619:14, 619:15, 622:16, 622:18, 628:9, 629:14, 629:22, 631:7, 631:18, 635:9, 640:10, 641:1, 643:25, 647:5, 648:16, 649:5, 649:20, 650:9, 652:13, 656:5, 656:18, 659:21, 660:17, 664:16, 667:5, 672:12, 673:17, 676:1, 679:2 <b>BYRON</b> [1] - 619:4	<b>CALIFORNIA</b> [8] - 619:7, 619:10, 619:11, 619:16, 656:15, 658:20, 664:25, 667:7 <b>CALIFORNIA'S</b> [1] - 664:8 <b>CALLED</b> [1] - 622:16 <b>CAPTURED</b> [1] - 624:14 <b>CASE</b> [4] - 630:4, 680:20, 684:24 <b>CASE</b> [1] - 618:6 <b>CAUSED</b> [2] - 627:12, 643:10 <b>CDM</b> [2] - 663:21, 680:11 <b>CEASE</b> [1] - 663:25 <b>CENTRAL</b> [2] - 618:2, 687:7 <b>CERTAIN</b> [5] - 638:9, 647:15, 655:24, 663:23, 664:10 <b>CERTAINLY</b> [2] - 646:10, 655:6 <b>CERTAINTY</b> [1] - 677:24 <b>CERTIFICATE</b> [1] - 687:1 <b>CERTIFICATION</b> [1] - 670:3 <b>CERTIFIED</b> [5] - 658:8, 658:10, 658:13, 658:21, 658:24 <b>CERTIFY</b> [1] - 687:7 <b>CERTIFY</b> [1] - 658:14 <b>CETERA</b> [1] - 678:14 <b>CHAIN</b> [1] - 674:22 <b>CHALLENGE</b> [1] - 681:9 <b>CHALLENGED</b> [2] - 683:13, 684:19 <b>CHANCE</b> [1] - 684:3 <b>CHANDALAR</b> [1] - 619:9 <b>CHANGE</b> [2] - 647:17, 681:19 <b>CHANGED</b> [2] - 632:17, 634:3 <b>CHANGEOVER</b> [1] - 636:3 <b>CHANGING</b> [1] - 629:8 <b>CHARACTERISTICS</b> [6] - 645:17, 646:12, 651:9, 651:22, 652:6, 654:8 <b>CHECK</b> [2] - 645:15, 684:4 <b>CHEMICAL</b> [1] -
		<b>C</b>	<b>CALIFORNIA</b> [5] - 618:2, 618:15, 618:25, 622:2, 687:7	

624:10 <b>CHEMICALS</b> [1] - 633:5 <b>CHIEF</b> [1] - 657:6 <b>CITATION</b> [1] - 668:12 <b>CITE</b> [2] - 638:20, 644:10 <b>CITED</b> [2] - 668:9, 676:6 <b>CLARITA</b> [1] - 618:5 <b>CLARITA</b> [5] - 622:8, 660:18, 660:22, 661:11, 662:24 <b>CLEAN</b> [2] - 663:23, 664:3 <b>CLEANED</b> [1] - 658:19 <b>CLEANER</b> [1] - 627:19 <b>CLEANERS</b> [2] - 627:13, 627:17 <b>CLEANING</b> [5] - 627:14, 627:19, 627:21, 628:1, 661:6 <b>CLEANUP</b> [1] - 663:25 <b>CLOSED</b> [8] - 658:8, 658:10, 658:22, 658:24, 659:4, 659:9, 665:25, 666:24 <b>CLOSURE</b> [14] - 647:9, 648:1, 648:10, 648:11, 648:12, 657:14, 657:19, 657:23, 658:11, 659:8, 659:10, 659:13, 663:24, 664:3 <b>COAST</b> [1] - 644:15 <b>CODE</b> [1] - 687:8 <b>COLLEAGUE</b> [1] - 685:11 <b>COLLECT</b> [1] - 654:19 <b>COLLECTED</b> [1] - 650:7 <b>COMING</b> [2] - 664:19, 681:10 <b>COMMITTED</b> [1] - 652:8 <b>COMMUNITY</b> [1] - 627:16 <b>COMPANIES</b> [1] - 638:10 <b>COMPANY</b> [1] - 660:19 <b>COMPLAINT</b> [1] - 672:13 <b>COMPLETE</b> [1] - 646:9 <b>COMPLETED</b> [6] - 662:4, 662:5, 664:1, 664:8, 664:10, 679:9	<b>COMPLETING</b> [1] - 674:11 <b>COMPLIANCE</b> [9] - 648:22, 649:9, 662:7, 662:8, 662:18, 662:24, 663:6, 663:12, 663:13 <b>COMPONENT</b> [2] - 627:24, 670:20 <b>COMPOUNDS</b> [1] - 623:19 <b>COMPREHENSIVE</b> [1] - 653:23 <b>CONCENTRATION</b> [1] - 625:21 <b>CONCENTRATIONS</b> [3] - 625:9, 641:23, 642:5 <b>CONCEPT</b> [1] - 668:4 <b>CONCERN</b> [1] - 684:10 <b>CONCERNED</b> [1] - 633:12 <b>CONCLUDE</b> [7] - 639:14, 640:15, 641:2, 648:21, 649:8, 650:10, 685:21 <b>CONCLUDED</b> [3] - 680:18, 681:8, 686:5 <b>CONCLUSION</b> [1] - 635:17 <b>CONCRETE</b> [4] - 646:3, 646:5, 646:7 <b>CONDENSED</b> [3] - 624:15, 626:13, 626:17 <b>CONDITION</b> [1] - 659:11 <b>CONDITIONS</b> [5] - 651:7, 651:17, 651:19, 653:4, 653:23 <b>CONDUCTED</b> [1] - 662:2 <b>CONDUCTING</b> [1] - 645:23 <b>CONFER</b> [2] - 684:2, 684:4 <b>CONFERENCE</b> [1] - 687:12 <b>CONFIRM</b> [2] - 682:10, 683:20 <b>CONFORMANCE</b> [1] - 687:12 <b>CONNECTED</b> [1] - 627:16 <b>CONNECTION</b> [1] - 665:2	<b>CONSENT</b> [1] - 621:10 <b>CONSENT</b> [9] - 652:17, 652:22, 652:23, 655:17, 656:7, 656:21, 656:24, 672:13, 676:15 <b>CONSEQUENCES</b> [1] - 684:8 <b>CONSIDER</b> [2] - 630:5, 630:18 <b>CONSIDERATION</b> [1] - 627:10 <b>CONSIDERED</b> [7] - 630:4, 638:16, 639:22, 658:3, 659:24, 671:20, 673:18 <b>CONSIDERING</b> [1] - 641:1 <b>CONSISTENT</b> [4] - 641:4, 641:8, 641:12, 641:13 <b>CONSTRUCTED</b> [1] - 646:16 <b>CONSTRUCTION</b> [1] - 623:17 <b>CONSULTANT</b> [1] - 672:2 <b>CONSULTANTS</b> [1] - 662:3 <b>CONTAMINANT</b> [1] - 654:18 <b>CONTAMINATION</b> [8] - 624:5, 637:13, 637:18, 637:21, 637:24, 641:20, 645:18, 663:14 <b>CONTEXT</b> [1] - 662:21 <b>CONTINUE</b> [3] - 622:14, 634:5, 680:21 <b>CONTRACT</b> [5] - 629:8, 629:9, 629:18, 640:12, 641:14 <b>CONTRACTS</b> [18] - 629:5, 629:19, 629:23, 635:21, 639:15, 639:23, 640:1, 640:3, 640:4, 640:5, 640:11, 640:12, 640:13, 641:9, 641:12, 641:15, 642:14 <b>CONTRADICT</b> [2] - 638:15, 639:1 <b>CONTRADICTING</b> [1] - 638:21 <b>CONTRADICTION</b> [1]	- 635:5 <b>CONTROL</b> [12] - 647:14, 649:7, 650:22, 656:11, 658:18, 658:23, 664:25, 665:1, 665:14, 665:20, 666:24, 667:7 <b>COPIES</b> [1] - 667:18 <b>COPY</b> [3] - 631:13, 647:7, 670:14 <b>CORPORATION</b> [4] - 622:8, 638:11, 652:18, 652:20 <b>CORPORATION</b> [1] - 618:8 <b>CORPORATION-</b> <b>BERMITE</b> [1] - 652:18 <b>CORRECT</b> [1] - 687:9 <b>CORRECT</b> [70] - 622:24, 623:4, 623:19, 623:22, 624:1, 625:17, 625:23, 627:13, 628:10, 628:25, 630:4, 630:11, 638:15, 639:12, 640:2, 640:6, 641:20, 643:7, 643:14, 644:12, 644:16, 644:22, 645:10, 646:3, 647:14, 650:11, 650:22, 651:17, 653:24, 655:12, 655:18, 656:12, 656:16, 656:19, 656:22, 657:13, 658:3, 659:22, 660:3, 660:8, 660:20, 661:14, 662:16, 663:7, 667:11, 669:7, 670:4, 670:8, 671:17, 672:15, 672:23, 673:21, 674:6, 674:7, 674:21, 675:1, 675:2, 675:5, 675:9, 675:16, 675:17, 675:20, 675:21, 675:23, 676:13, 677:4, 677:25, 679:6, 679:25, 680:9 <b>CORRECTIVE</b> [1] - 678:13 <b>CORRECTLY</b> [1] - 677:12 <b>COST</b> [1] - 627:10	<b>COUNSEL</b> [1] - 619:1 <b>COUNSEL</b> [6] - 637:12, 637:16, 637:22, 638:1, 665:1, 666:11 <b>COUNT</b> [3] - 668:16, 668:17, 668:18 <b>COUNTY</b> [1] - 643:4 <b>COUPLE</b> [2] - 639:10, 654:21 <b>COURSE</b> [1] - 624:12 <b>COURT</b> [2] - 622:6, 680:25 <b>COURT</b> [6] - 635:8, 640:7, 682:11, 685:3, 685:12, 685:17 <b>COURT</b> [48] - 618:1, 618:24, 622:7, 622:13, 629:13, 629:20, 631:13, 631:17, 635:7, 640:7, 640:25, 643:24, 648:14, 649:4, 649:16, 650:2, 656:1, 656:17, 656:25, 660:13, 660:15, 664:13, 666:14, 667:1, 669:10, 672:9, 673:12, 678:22, 680:16, 681:1, 681:12, 681:21, 682:1, 682:4, 682:13, 682:20, 682:23, 683:3, 683:8, 684:7, 685:8, 685:13, 685:19, 685:24, 686:1, 687:6, 687:19 <b>COURT'S</b> [1] - 683:12 <b>COVER</b> [3] - 652:21, 656:10, 672:20 <b>CRADLE</b> [1] - 668:4 <b>CRADLE-TO-GRAVE</b> [1] - 668:4 <b>CROSS</b> [1] - 620:5 <b>CROSS</b> [2] - 622:13, 682:24 <b>CROSS</b> [1] - 622:17 <b>CROSS-</b> <b>EXAMINATION</b> [1] - 620:5 <b>CROSS-</b> <b>EXAMINATION</b> [2] - 622:13, 682:24 <b>CROSS-</b> <b>EXAMINATION</b> [1] - 622:17 <b>CRR</b> [2] - 618:23,
---	---	--	--	--

687:19 <b>CSR</b> [2] - 618:23, 687:19 <b>CUBIC</b> [1] - 679:21 <b>CUP</b> [1] - 659:23 <b>CURRENT</b> [4] - 648:22, 649:9, 660:11, 677:6 <b>CUSTODY</b> [1] - 674:24 <b>CV</b> [1] - 618:7	645:12, 645:25 <b>DEGREASERS</b> [8] - 624:1, 624:2, 624:3, 624:4, 625:12, 627:25, 644:25, 645:22 <b>DEGREASING</b> [9] - 624:11, 624:19, 624:20, 625:1, 625:8, 627:8, 645:4 <b>DEGREE</b> [2] - 646:11, 662:5 <b>DEMOLITION</b> [3] - 671:21, 678:3, 678:14 <b>DEPARTMENT</b> [10] - 629:9, 629:18, 643:4, 644:20, 647:11, 647:14, 656:11, 658:17, 658:23, 673:4 <b>DEPARTMENT</b> [5] - 644:15, 658:8, 658:14, 658:16, 658:22 <b>DEPO</b> [1] - 632:15 <b>DEPOSIT</b> [1] - 675:18 <b>DEPOSITION</b> [8] - 632:5, 634:18, 634:20, 634:22, 636:10, 636:15, 636:17, 642:20 <b>DEPOSITIONS</b> [1] - 642:23 <b>DEPTH</b> [1] - 654:7 <b>DEPTHS</b> [1] - 651:23 <b>DESCRIBE</b> [4] - 626:9, 641:5, 641:16, 650:7 <b>DESCRIBED</b> [4] - 624:13, 624:24, 628:13, 679:22 <b>DESCRIBES</b> [2] - 666:8, 668:19 <b>DESCRIBING</b> [1] - 665:21 <b>DESCRIPTION</b> [1] - 621:3 <b>DESCRIPTION</b> [1] - 678:2 <b>DESCRIPTIONS</b> [1] - 642:19 <b>DESIGN</b> [1] - 653:19 <b>DESIGNATE</b> [1] - 668:20 <b>DESIGNED</b> [2] - 653:17, 685:1 <b>DESIGNING</b> [2] - 653:7, 653:22 <b>DESTROYED</b> [1] -	639:18 <b>DESTRUCTION</b> [1] - 628:11 <b>DESTRUCTION</b> [2] - 628:15, 640:16 <b>DETAIL</b> [2] - 631:1, 666:21 <b>DETAILED</b> [1] - 653:16 <b>DETAILS</b> [2] - 637:20, 644:23 <b>DETERMINATION</b> [1] - - 621:11 <b>DETERMINE</b> [3] - 652:1, 652:6, 677:11 <b>DETERMINED</b> [3] - 659:4, 677:3, 677:20 <b>DEVELOP</b> [1] - 654:19 <b>DEVELOPMENT</b> [1] - 653:19 <b>DIFFERENT</b> [14] - 623:23, 624:3, 625:24, 628:14, 635:1, 637:3, 642:16, 642:20, 646:4, 646:6, 651:23, 673:7, 674:11, 674:20 <b>DIFFERENTLY</b> [1] - 635:25 <b>DIFFICULT</b> [1] - 644:2 <b>DIRECT</b> [2] - 682:20, 682:22 <b>DIRECTION</b> [1] - 651:16 <b>DIRT</b> [3] - 646:10, 646:11, 646:12 <b>DISAGREE</b> [2] - 634:14, 639:25 <b>DISAGREED</b> [1] - 634:7 <b>DISAGREEING</b> [1] - 634:12 <b>DISCLOSED</b> [1] - 666:23 <b>DISCLOSING</b> [1] - 683:12 <b>DISCLOSURE</b> [2] - 671:23, 672:4 <b>DISCOVERED</b> [1] - 672:1 <b>DISCUSS</b> [4] - 636:24, 642:23, 644:1, 644:5 <b>DISCUSSED</b> [8] - 627:25, 629:2, 645:16, 647:6, 655:17, 657:20, 676:16, 681:20 <b>DISCUSSING</b> [1] - 666:6	<b>DISCUSSION</b> [3] - 667:15, 667:19, 671:23 <b>DISCUSSIONS</b> [1] - 650:24 <b>DISFAVOR</b> [1] - 633:4 <b>DISPOSAL</b> [6] - 624:23, 624:24, 628:18, 629:7, 644:3, 675:18 <b>DISPOSAL</b> [2] - 621:5, 639:11 <b>DISPOSE</b> [3] - 644:8, 644:11, 644:21 <b>DISPOSED</b> [5] - 625:4, 640:21, 675:13, 677:1, 677:3 <b>DISPUTE</b> [1] - 684:1 <b>DISPUTES</b> [1] - 684:11 <b>DISREGARD</b> [1] - 648:14 <b>DISTANCE</b> [1] - 640:19 <b>DISTRICT</b> [5] - 618:1, 618:2, 618:3, 687:6, 687:7 <b>DIVIDED</b> [1] - 655:11 <b>DIVISION</b> [1] - 618:2 <b>DIVISION</b> [1] - 652:18 <b>DO</b> [1] - 687:7 <b>DOCTOR</b> [2] - 622:21, 681:3 <b>DOCUMENT</b> [47] - 625:3, 634:13, 635:16, 635:19, 635:24, 636:11, 640:23, 643:15, 644:10, 646:24, 647:5, 648:23, 648:24, 649:2, 649:11, 649:12, 650:5, 652:8, 652:13, 652:15, 656:25, 657:25, 658:2, 658:5, 658:11, 658:12, 659:16, 659:21, 659:24, 660:2, 660:8, 660:11, 664:18, 664:24, 668:3, 669:18, 670:13, 671:3, 671:6, 671:24, 672:16, 673:12, 675:24, 676:6, 676:10, 676:18, 678:7 <b>DOCUMENTATION</b> [14] - 625:12, 625:24,	626:4, 626:5, 638:17, 665:23, 667:22, 668:9, 670:12, 670:16, 671:13, 673:7, 673:9 <b>DOCUMENTATIONS</b> [1] - 644:9 <b>DOCUMENTED</b> [3] - 626:2, 671:11, 672:25 <b>DOCUMENTS</b> [20] - 625:7, 628:13, 629:23, 634:15, 634:19, 634:20, 634:21, 636:21, 637:7, 637:9, 638:16, 638:17, 642:11, 643:25, 644:5, 659:12, 665:19, 666:15, 668:5, 673:20 <b>DOD</b> [2] - 635:21, 644:20 <b>DOHS</b> [2] - 647:13, 674:1 <b>DONE</b> [16] - 622:23, 625:15, 633:7, 643:3, 648:10, 648:11, 650:21, 653:16, 654:3, 656:18, 658:14, 659:7, 659:17, 667:17, 673:4, 677:8 <b>DOWN</b> [5] - 626:24, 636:19, 662:15, 678:13, 680:17 <b>DR</b> [9] - 622:10, 631:19, 636:23, 642:12, 662:6, 662:16, 683:23, 684:3, 684:5 <b>DRAW</b> [1] - 680:5 <b>DRUM</b> [1] - 639:11 <b>DRUMS</b> [1] - 643:11 <b>DRY</b> [7] - 627:12, 627:14, 627:16, 627:18, 627:19, 627:21, 628:1 <b>DTSC</b> [5] - 657:7, 664:6, 666:2, 673:5, 674:1 <b>DUMPED</b> [1] - 625:19 <b>DUMPING</b> [1] - 628:20 <b>DURING</b> [9] - 623:17, 624:9, 624:10, 624:12, 642:21, 645:7, 645:9, 645:12, 668:23
---	---	--	---	--

<b>E</b> <p><b>E-MAIL</b> [1] - 684:4  <b>EARLY</b> [2] - 655:3, 684:23  <b>EASIER</b> [2] - 681:12, 681:14  <b>EDLIN</b> [1] - 619:13  <b>EFFECT</b> [2] - 637:17, 644:9  <b>EFFECTIVE</b> [1] - 659:11  <b>EIGHT</b> [1] - 676:15  <b>EITHER</b> [5] - 636:22, 667:8, 684:16, 684:18, 685:4  <b>EMERGENCY</b> [7] - 643:10, 643:13, 643:14, 643:16, 643:17, 643:18  <b>ENCOURAGED</b> [1] - 633:14  <b>END</b> [3] - 644:24, 649:12, 685:22  <b>ENDANGERMENT</b> [1] - 621:4  <b>ENDANGERMENT</b> [1] - 659:18  <b>ENDED</b> [1] - 628:4  <b>ENFORCEABLE</b> [2] - 662:19, 662:25  <b>ENGINEER</b> [2] - 638:8, 658:13  <b>ENSURE</b> [1] - 659:10  <b>ENTERED</b> [5] - 644:20, 651:1, 656:7, 663:7, 685:16  <b>ENTIRE</b> [3] - 630:12, 649:11, 667:19  <b>ENTITLED</b> [1] - 687:11  <b>ENTITY</b> [1] - 667:24  <b>ENVIRONMENT</b> [2] - 625:2, 633:13  <b>ENVIRONMENTAL</b> [2] - 670:10, 671:16  <b>ENVIRONMENTAL</b> [3] - 627:16, 645:13, 645:15  <b>EPA</b> [10] - 650:25, 652:4, 653:6, 653:22, 668:23, 669:2, 669:22, 671:8, 671:24  <b>ERIC</b> [1] - 619:15  <b>ERIC</b> [1] - 619:20  <b>ESCAPED</b> [1] - 624:15  <b>EXPECIALLY</b> [1] - 666:15  <b>ESTABLISHED</b> [2] - 640:16, 640:18</p>	<p><b>ESTIMATE</b> [1] - 684:6  <b>ET</b> [2] - 618:8, 678:14  <b>EVENT</b> [1] - 656:1  <b>EVIDENCE</b> [1] - 621:2  <b>EVIDENCE</b> [14] - 628:8, 635:6, 640:24, 647:4, 652:12, 655:22, 655:23, 656:4, 659:20, 665:18, 669:9, 669:12, 669:25, 673:16  <b>EVIDENTIARY</b> [1] - 681:15  <b>EVOLUTION</b> [1] - 650:18  <b>EXACT</b> [1] - 642:6  <b>EXAMINATION</b> [4] - 622:17, 664:15, 672:11, 679:1  <b>EXAMINATION</b> [6] - 620:5, 620:5, 620:6, 620:6, 622:13, 682:24  <b>EXAMPLE</b> [2] - 642:3, 657:2  <b>EXCAVATIONS</b> [1] - 673:1  <b>EXCEPT</b> [2] - 653:20, 655:23  <b>EXCLUSION</b> [1] - 684:16  <b>EXCUSED</b> [2] - 680:16, 681:3  <b>EXECUTE</b> [1] - 674:23  <b>EXECUTIVES</b> [1] - 670:8  <b>EXHIBIT</b> [25] - 628:4, 628:8, 631:3, 631:5, 633:19, 638:20, 647:1, 647:4, 652:9, 652:12, 656:4, 659:17, 659:20, 660:6, 664:17, 666:4, 668:11, 669:12, 669:14, 670:1, 670:5, 673:10, 673:16, 676:12, 685:16  <b>EXHIBIT</b> [4] - 655:16, 665:6, 667:5, 685:17  <b>EXHIBITS</b> [5] - 683:13, 683:14, 683:25, 684:2, 684:19  <b>EXHIBITS</b> [1] - 621:1  <b>EXIST</b> [2] - 648:17, 648:19  <b>EXPECT</b> [3] - 684:3, 684:5, 684:16  <b>EXPECTATION</b> [1] -</p> <p>682:11  <b>EXPENSIVE</b> [1] - 627:4  <b>EXPERIENCE</b> [7] - 627:11, 633:9, 639:3, 659:2, 661:10, 662:10, 667:23  <b>EXPERT</b> [4] - 638:9, 638:15, 639:2  <b>EXPERT</b> [1] - 621:9  <b>EXPLAINS</b> [1] - 648:24  <b>EXPLOSIVES</b> [4] - 623:14, 639:17, 640:20, 641:7  <b>EXTRA</b> [1] - 631:13  <b>EXTREMELY</b> [1] - 642:4  <b>EXTRUDING</b> [1] - 624:13</p>	<p><b>FEDERAL</b> [1] - 633:11  <b>FEDERAL</b> [3] - 618:24, 687:5, 687:19  <b>FELL</b> [1] - 633:3  <b>FEW</b> [6] - 639:4, 653:20, 654:10, 659:6, 670:11, 681:4  <b>FIELD</b> [1] - 623:16  <b>FIELDS</b> [1] - 623:15  <b>FIGUEROA</b> [1] - 619:6  <b>FIGURE</b> [1] - 683:9  <b>FILLS</b> [1] - 672:2  <b>FINAL</b> [2] - 652:17, 668:6  <b>FINALLY</b> [1] - 650:9  <b>FINANCIAL</b> [1] - 661:11  <b>FINE</b> [3] - 631:17, 632:7, 639:6  <b>FINISH</b> [1] - 663:17  <b>FIRE</b> [1] - 643:4  <b>FIRE</b> [1] - 644:15  <b>FIREWORKS</b> [7] - 623:4, 623:5, 623:9, 623:10, 654:23, 654:24, 654:25  <b>F</b></p> <p><b>FACILITIES</b> [2] - 627:14, 629:2  <b>FACILITY</b> [27] - 624:8, 628:18, 629:7, 629:11, 629:15, 631:22, 633:23, 638:6, 639:10, 651:24, 652:24, 653:1, 656:9, 656:10, 670:25, 676:13, 681:9  <b>FACILITY'S</b> [1] - 650:13  <b>FACT</b> [8] - 642:23, 643:12, 644:1, 649:22, 661:5, 662:11, 665:14, 666:8  <b>FACTS</b> [1] - 667:8  <b>FAILURE</b> [2] - 661:14, 684:9  <b>FAIR</b> [1] - 626:3  <b>FAIRLY</b> [2] - 681:5, 684:25  <b>FAR</b> [1] - 681:11  <b>FAST</b> [1] - 659:16  <b>FAVORABLY</b> [1] - 638:13  <b>FEBRUARY</b> [2] - 662:19, 662:25  <b>FEDERAL</b> [1] - 633:11  <b>FEDERAL</b> [3] - 618:24, 687:5, 687:19  <b>FELL</b> [1] - 633:3  <b>FEW</b> [6] - 639:4, 653:20, 654:10, 659:6, 670:11, 681:4  <b>FIELD</b> [1] - 623:16  <b>FIELDS</b> [1] - 623:15  <b>FIGUEROA</b> [1] - 619:6  <b>FIGURE</b> [1] - 683:9  <b>FILLS</b> [1] - 672:2  <b>FINAL</b> [2] - 652:17, 668:6  <b>FINALLY</b> [1] - 650:9  <b>FINANCIAL</b> [1] - 661:11  <b>FINE</b> [3] - 631:17, 632:7, 639:6  <b>FINISH</b> [1] - 663:17  <b>FIRE</b> [1] - 643:4  <b>FIRE</b> [1] - 644:15  <b>FIREWORKS</b> [7] - 623:4, 623:5, 623:9, 623:10, 654:23, 654:24, 654:25  <b>G</b></p> <p><b>GALLAGHER</b> [2] - 619:13, 619:14  <b>GEE</b> [1] - 685:13  <b>GEE</b> [3] - 619:4, 682:18, 685:14  <b>GEE</b> [1] - 638:11  <b>GENERAL</b> [8] - 622:22, 653:18, 654:14, 654:15, 667:19, 668:17, 671:21, 678:3  <b>GENERAL'S</b> [1] - 662:22  <b>GENERALLY</b> [4] - 624:4, 632:21, 645:19, 669:17  <b>GENERATES</b> [1] - 674:25  <b>GENERATOR</b> [7] - 674:12, 674:13, 674:16, 674:25, 675:7, 675:14, 676:3  <b>GENERATOR'S</b> [1] - 674:8  <b>GENERATORS</b> [2] - 668:19, 668:20  <b>GENTLEMEN</b> [1] - 680:18  <b>GEOPHYSICAL</b> [5] - 651:7, 651:9, 651:17, 651:18, 652:6  <b>GEOPHYSICS</b> [2] -</p>
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651:13, 651:14 <b>GIST</b> [1] - 661:21 <b>GIVEN</b> [3] - 659:3, 666:15, 681:13 <b>GORDON</b> [1] - 670:2 <b>GOVERNMENT</b> [11] - 633:11, 640:19, 641:4, 641:8, 642:12, 642:14, 642:15, 658:12, 659:4, 661:9, 662:13 <b>GOVERNMENT</b> [1] - 628:15 <b>GOVERNMENTS'S</b> [3] - 639:15, 641:10, 641:15 <b>GOVERNMENTS</b> [1] - 633:11 <b>GRAPHIC</b> [1] - 685:18 <b>GRAVE</b> [1] - 668:4 <b>GREAT</b> [2] - 664:24, 685:22 <b>GROUND</b> [4] - 624:16, 654:3, 663:10, 663:11 <b>GROUNDWATER</b> [15] - 637:24, 646:19, 646:21, 648:21, 649:8, 650:12, 651:11, 651:16, 651:21, 653:5, 653:14, 653:16, 659:9, 665:2, 666:6 <b>GUESS</b> [1] - 651:6 <b>GUESSES</b> [1] - 625:22	675:12, 677:1, 677:2, 677:3, 677:6, 677:14, 677:20, 677:22, 679:10, 679:11, 680:2, 680:3, 680:8 <b>HAZARDOUS</b> [1] - 621:6 <b>HEAD</b> [3] - 655:5, 681:12, 682:2 <b>HEALTH</b> [1] - 682:6 <b>HEALTH</b> [2] - 647:11, 673:5 <b>HEALTHY</b> [1] - 680:22 <b>HEAR</b> [2] - 681:23, 682:5 <b>HEARSAY</b> [2] - 640:23, 640:24 <b>HELD</b> [1] - 687:10 <b>HELD</b> [2] - 622:5, 680:24 <b>HELP</b> [2] - 636:5, 637:20 <b>HELPFUL</b> [2] - 651:21, 651:22 <b>HEREBY</b> [1] - 687:7 <b>HIGH</b> [3] - 625:9, 642:4, 685:22 <b>HIGHER</b> [1] - 681:13 <b>HIGHEST</b> [1] - 641:23 <b>HIGHLIGHTED</b> [2] - 650:6, 662:20 <b>HIGHWAY</b> [1] - 623:17 <b>HIRE</b> [1] - 675:15 <b>HISTORY</b> [1] - 637:4 <b>HOLDS</b> [1] - 642:10 <b>HOLES</b> [1] - 646:5 <b>HONOR</b> [28] - 631:11, 635:4, 640:22, 646:25, 649:3, 649:13, 655:23, 656:2, 657:3, 664:14, 666:11, 668:15, 669:8, 672:10, 673:13, 678:20, 678:23, 680:14, 680:15, 681:9, 681:15, 681:25, 682:25, 683:24, 685:6, 685:12, 685:23, 686:4 <b>HONORABLE</b> [1] - 618:3 <b>HOSPITAL</b> [1] - 682:7 <b>HOUR</b> [6] - 682:16, 682:17, 682:18, 682:19, 682:22, 683:1 <b>HUGHTO</b> [7] - 622:10,	622:19, 631:19, 636:23, 642:12, 662:6, 662:16 <b>HUGHTO</b> [2] - 620:4, 622:15 <b>HUIE</b> [1] - 619:13 <b>HULA</b> [6] - 643:11, 654:22, 654:23, 675:3, 675:10, 675:12 <b>HUNDREDS</b> [2] - 636:21, 642:9 <b>HYDROGEOLOGIC</b> [10] - 652:25, 653:1, 653:3, 653:7, 653:10, 653:15, 653:23, 654:2, 654:17 <b>HYDROGEOLOGY</b> [1] - 654:17 <b>HYDROLOGY</b> [1] - 651:13 <b>HYPOTHETICAL</b> [1] - 625:25	<b>IMPORTANT</b> [3] - 651:6, 668:2, 668:3 <b>IMPOUNDMENT</b> [8] - 647:22, 665:10, 665:15, 665:22, 665:25, 666:9, 666:24 <b>IMPOUNDMENTS</b> [1] - 647:10 <b>IN</b> [3] - 687:6, 687:10, 687:11 <b>INADEQUACY</b> [1] - 648:12 <b>INCLUDED</b> [1] - 662:4 <b>INCLUDES</b> [1] - 670:3 <b>INCLUDING</b> [2] - 622:9, 661:24 <b>INCORRECT</b> [1] - 639:22 <b>INDEX</b> [2] - 620:1, 621:1 <b>INDICATE</b> [1] - 665:19 <b>INDUSTRIES</b> [2] - 633:10, 633:14 <b>INFORM</b> [2] - 637:12, 637:17 <b>INFORMATION</b> [13] - 651:15, 652:1, 653:19, 654:2, 654:4, 657:2, 666:23, 667:1, 667:4, 669:23, 670:4, 677:23, 679:12 <b>INFORMED</b> [1] - 637:22 <b>IDEA</b> [2] - 626:18, 668:7 <b>IDENTIFICATION</b> [1] - 621:2 <b>IDENTIFICATION</b> [8] - 628:7, 631:5, 647:3, 652:11, 656:3, 659:19, 669:11, 673:15 <b>IDENTIFIED</b> [6] - 655:14, 662:12, 671:24, 677:14, 683:25, 684:2 <b>IDENTIFIES</b> [2] - 667:25, 670:23 <b>IDENTIFY</b> [2] - 667:23, 677:16 <b>IDENTITY</b> [1] - 667:23 <b>II</b> [5] - 645:3, 645:7, 645:8, 645:9, 645:12 <b>ILSE</b> [1] - 619:9 <b>IMAGINATION</b> [1] - 681:10 <b>IMMINENT</b> [1] - 659:17 <b>IMMINENT</b> [1] - 621:4 <b>IMPEACHABLE</b> [1] - 635:8 <b>IMPLEMENTED</b> [3] - 657:14, 657:21, 657:23 <b>IMPLIED</b> [1] - 661:17 <b>IMPORTANCE</b> [1] -	<b>INSURANCE</b> [1] - 638:9 <b>INSURANCE</b> [1] - 638:10 <b>INTENDED</b> [1] - 666:9 <b>INTEREST</b> [1] - 684:10 <b>INTERIM</b> [1] - 646:20 <b>INTERRUPT</b> [1] - 640:22 <b>INTRODUCED</b> [1] - 636:8 <b>INVESTIGATED</b> [5] - 645:19, 679:17, 679:20, 679:24, 680:6 <b>INVESTIGATION</b> [9] - 645:23, 645:24, 645:25, 654:4, 654:17, 669:16, 672:3, 677:9, 679:10 <b>INVESTIGATIONS</b> [3] - 653:17, 663:22, 673:1 <b>INVOLVED</b> [2] - 627:23, 680:21 <b>IS</b> [2] - 687:9, 687:11 <b>ISC</b> [1] - 663:15 <b>ISD</b> [2] - 648:22, 649:9 <b>ISE</b> [2] - 659:17, 661:7 <b>ISOLATED</b> [1] - 648:25 <b>ISSUE</b> [2] - 644:19, 655:8 <b>ISSUED</b> [1] - 661:7 <b>ISSUES</b> [2] - 622:22, 682:6 <b>ISSUING</b> [1] - 644:18 <b>ITEM</b> [2] - 683:11, 685:2 <b>ITERATIVE</b> [5] - 653:18, 654:1, 654:6, 654:8, 654:18	<b>JANUARY</b> [1] - 662:15 <b>JR</b> [2] - 618:3, 619:14 <b>JUDGE</b> [1] - 618:3 <b>JUDICIAL</b> [1] - 687:12 <b>JUNE</b> [5] - 668:12, 668:13, 668:23, 671:7, 672:20 <b>JURY</b> [6] - 622:6, 648:14, 661:16, 674:19, 680:25, 681:2

**K**  **KEEP** [3] - 630:14, 661:6, 680:21  **KIND** [2] - 625:20, 632:19  **KNOWINGLY** [2] - 678:11  **KNOWLEDGE** [2] - 642:18, 666:25  **KNOWN** [4] - 679:17, 679:20, 679:23	**LINE** [3] - 632:5, 648:4  **LINES** [3] - 635:3, 659:6, 662:15  **LIQUID** [1] - 626:13  **LIST** [4] - 635:17, 669:4, 673:20, 685:7  **LISTS** [2] - 663:3, 668:24  **LITIGATION** [4] - 638:10, 662:17, 663:1, 663:4  **LLC** [4] - 660:18, 660:22, 661:11, 662:24  **LLP** [2] - 619:4, 619:9  **LOADING** [1] - 624:10  **LOCATION** [4] - 623:5, 627:19, 629:3, 640:16  **LOCATIONS** [2] - 628:24, 644:21  **LOOK** [11] - 631:3, 633:15, 638:19, 642:9, 648:23, 660:6, 666:4, 669:25, 672:25, 679:9, 684:11  **LOOKED** [10] - 623:6, 625:6, 625:7, 625:10, 634:13, 634:15, 634:16, 634:19, 634:21, 669:3  **LOOKING** [9] - 625:7, 625:9, 634:14, 637:7, 641:14, 645:17, 655:15, 663:3, 670:2  **LOS** [1] - 619:7  **LOS** [3] - 618:15, 618:25, 622:2  **LOST** [3] - 643:6, 643:7, 643:8  **LOUSY** [2] - 627:7  **LOUTTIT** [3] - 652:19, 657:8, 670:2  **LUNCH** [1] - 667:13	**MAILED** [1] - 684:4  **MAINTAINED** [2] - 674:5, 674:9  **MAINTENANCE** [1] - 674:11  **MAJOR** [1] - 641:20  **MAJORITY** [4] - 641:25, 642:1, 642:6, 642:7  **MANAGED** [2] - 625:14, 670:21  **MANAGEMENT** [12] - 655:9, 655:12, 655:13, 657:15, 657:20, 658:1, 658:4, 658:5, 658:19, 670:12, 670:17, 670:19  **MANAGEMENT** [1] - 644:16  **MANDATED** [1] - 628:15  **MANIFEST** [12] - 667:22, 668:1, 668:7, 668:9, 668:19, 668:20, 668:24, 669:3, 674:1, 674:9, 674:23  **MANIFESTED** [1] - 625:14  **MANIFESTS** [6] - 667:14, 668:25, 669:4, 672:14, 674:4, 674:21  **MANNER** [1] - 637:23  **MANUAL** [6] - 628:5, 630:16, 639:16, 639:24, 641:10, 641:16  **MANUALS** [1] - 640:20  **MANUFACTURED** [3] - 640:14, 654:25, 655:2  **MANUFACTURING** [6] - 623:4, 623:9, 623:14, 636:4, 642:21, 655:4  **MARKED** [8] - 628:7, 631:5, 647:3, 652:11, 656:3, 659:19, 669:11, 673:15  **MASARD** [1] - 682:3  **MATERIAL** [3] - 644:6, 677:14, 680:2  **MATERIALS** [1] - 621:6  **MATERIALS** [9] -	**636:25, 640:14, 640:20, 642:21, 646:4, 646:6, 671:19, 678:2, 678:14, 690:19, 697:11, 700:1, 701:1, 702:1, 703:1, 704:1, 705:1, 706:1, 707:1, 708:1, 709:1, 710:1, 711:1, 712:1, 713:1, 714:1, 715:1, 716:1, 717:1, 718:1, 719:1, 720:1, 721:1, 722:1, 723:1, 724:1, 725:1, 726:1, 727:1, 728:1, 729:1, 730:1, 731:1, 732:1, 733:1, 734:1, 735:1, 736:1, 737:1, 738:1, 739:1, 740:1, 741:1, 742:1, 743:1, 744:1, 745:1, 746:1, 747:1, 748:1, 749:1, 750:1, 751:1, 752:1, 753:1, 754:1, 755:1, 756:1, 757:1, 758:1, 759:1, 760:1, 761:1, 762:1, 763:1, 764:1, 765:1, 766:1, 767:1, 768:1, 769:1, 770:1, 771:1, 772:1, 773:1, 774:1, 775:1, 776:1, 777:1, 778:1, 779:1, 780:1, 781:1, 782:1, 783:1, 784:1, 785:1, 786:1, 787:1, 788:1, 789:1, 790:1, 791:1, 792:1, 793:1, 794:1, 795:1, 796:1, 797:1, 798:1, 799:1, 800:1, 801:1, 802:1, 803:1, 804:1, 805:1, 806:1, 807:1, 808:1, 809:1, 810:1, 811:1, 812:1, 813:1, 814:1, 815:1, 816:1, 817:1, 818:1, 819:1, 820:1, 821:1, 822:1, 823:1, 824:1, 825:1, 826:1, 827:1, 828:1, 829:1, 830:1, 831:1, 832:1, 833:1, 834:1, 835:1, 836:1, 837:1, 838:1, 839:1, 840:1, 841:1, 842:1, 843:1, 844:1, 845:1, 846:1, 847:1, 848:1, 849:1, 850:1, 851:1, 852:1, 853:1, 854:1, 855:1, 856:1, 857:1, 858:1, 859:1, 860:1, 861:1, 862:1, 863:1, 864:1, 865:1, 866:1, 867:1, 868:1, 869:1, 870:1, 871:1, 872:1, 873:1, 874:1, 875:1, 876:1, 877:1, 878:1, 879:1, 880:1, 881:1, 882:1, 883:1, 884:1, 885:1, 886:1, 887:1, 888:1, 889:1, 890:1, 891:1, 892:1, 893:1, 894:1, 895:1, 896:1, 897:1, 898:1, 899:1, 900:1, 901:1, 902:1, 903:1, 904:1, 905:1, 906:1, 907:1, 908:1, 909:1, 910:1, 911:1, 912:1, 913:1, 914:1, 915:1, 916:1, 917:1, 918:1, 919:1, 920:1, 921:1, 922:1, 923:1, 924:1, 925:1, 926:1, 927:1, 928:1, 929:1, 930:1, 931:1, 932:1, 933:1, 934:1, 935:1, 936:1, 937:1, 938:1, 939:1, 940:1, 941:1, 942:1, 943:1, 944:1, 945:1, 946:1, 947:1, 948:1, 949:1, 950:1, 951:1, 952:1, 953:1, 954:1, 955:1, 956:1, 957:1, 958:1, 959:1, 960:1, 961:1, 962:1, 963:1, 964:1, 965:1, 966:1, 967:1, 968:1, 969:1, 970:1, 971:1, 972:1, 973:1, 974:1, 975:1, 976:1, 977:1, 978:1, 979:1, 980:1, 981:1, 982:1, 983:1, 984:1, 985:1, 986:1, 987:1, 988:1, 989:1, 990:1, 991:1, 992:1, 993:1, 994:1, 995:1, 996:1, 997:1, 998:1, 999:1, 1000:1, 1001:1, 1002:1, 1003:1, 1004:1, 1005:1, 1006:1, 1007:1, 1008:1, 1009:1, 1010:1, 1011:1, 1012:1, 1013:1, 1014:1, 1015:1, 1016:1, 1017:1, 1018:1, 1019:1, 1020:1, 1021:1, 1022:1, 1023:1, 1024:1, 1025:1, 1026:1, 1027:1, 1028:1, 1029:1, 1030:1, 1031:1, 1032:1, 1033:1, 1034:1, 1035:1, 1036:1, 1037:1, 1038:1, 1039:1, 1040:1, 1041:1, 1042:1, 1043:1, 1044:1, 1045:1, 1046:1, 1047:1, 1048:1, 1049:1, 1050:1, 1051:1, 1052:1, 1053:1, 1054:1, 1055:1, 1056:1, 1057:1, 1058:1, 1059:1, 1060:1, 1061:1, 1062:1, 1063:1, 1064:1, 1065:1, 1066:1, 1067:1, 1068:1, 1069:1, 1070:1, 1071:1, 1072:1, 1073:1, 1074:1, 1075:1, 1076:1, 1077:1, 1078:1, 1079:1, 1080:1, 1081:1, 1082:1, 1083:1, 1084:1, 1085:1, 1086:1, 1087:1, 1088:1, 1089:1, 1090:1, 1091:1, 1092:1, 1093:1, 1094:1, 1095:1, 1096:1, 1097:1, 1098:1, 1099:1, 1100:1, 1101:1, 1102:1, 1103:1, 1104:1, 1105:1, 1106:1, 1107:1, 1108:1, 1109:1, 1110:1, 1111:1, 1112:1, 1113:1, 1114:1, 1115:1, 1116:1, 1117:1, 1118:1, 1119:1, 1120:1, 1121:1, 1122:1, 1123:1, 1124:1, 1125:1, 1126:1, 1127:1, 1128:1, 1129:1, 1130:1, 1131:1, 1132:1, 1133:1, 1134:1, 1135:1, 1136:1, 1137:1, 1138:1, 1139:1, 1140:1, 1141:1, 1142:1, 1143:1, 1144:1, 1145:1, 1146:1, 1147:1, 1148:1, 1149:1, 1150:1, 1151:1, 1152:1, 1153:1, 1154:1, 1155:1, 1156:1, 1157:1, 1158:1, 1159:1, 1160:1, 1161:1, 1162:1, 1163:1, 1164:1, 1165:1, 1166:1, 1167:1, 1168:1, 1169:1, 1170:1, 1171:1, 1172:1, 1173:1, 1174:1, 1175:1, 1176:1, 1177:1, 1178:1, 1179:1, 1180:1, 1181:1, 1182:1, 1183:1, 1184:1, 1185:1, 1186:1, 1187:1, 1188:1, 1189:1, 1190:1, 1191:1, 1192:1, 1193:1, 1194:1, 1195:1, 1196:1, 1197:1, 1198:1, 1199:1, 1200:1, 1201:1, 1202:1, 1203:1, 1204:1, 1205:1, 1206:1, 1207:1, 1208:1, 1209:1, 1210:1, 1211:1, 1212:1, 1213:1, 1214:1, 1215:1, 1216:1, 1217:1, 1218:1, 1219:1, 1220:1, 1221:1, 1222:1, 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1348:1, 1349:1, 1350:1, 1351:1, 1352:1, 1353:1, 1354:1, 1355:1, 1356:1, 1357:1, 1358:1, 1359:1, 1360:1, 1361:1, 1362:1, 1363:1, 1364:1, 1365:1, 1366:1, 1367:1, 1368:1, 1369:1, 1370:1, 1371:1, 1372:1, 1373:1, 1374:1, 1375:1, 1376:1, 1377:1, 1378:1, 1379:1, 1380:1, 1381:1, 1382:1, 1383:1, 1384:1, 1385:1, 1386:1, 1387:1, 1388:1, 1389:1, 1390:1, 1391:1, 1392:1, 1393:1, 1394:1, 1395:1, 1396:1, 1397:1, 1398:1, 1399:1, 1400:1, 1401:1, 1402:1, 1403:1, 1404:1, 1405:1, 1406:1, 1407:1, 1408:1, 1409:1, 1410:1, 1411:1, 1412:1, 1413:1, 1414:1, 1415:1, 1416:1, 1417:1, 1418:1, 1419:1, 1420:1, 1421:1, 1422:1, 1423:1, 1424:1, 1425:1, 1426:1, 1427:1, 1428:1, 1429:1, 1430:1, 1431:1, 1432:1, 1433:1, 1434:1, 1435:1, 1436:1, 1437:1, 1438:1, 1439:1, 1440:1, 1441:1, 1442:1, 1443:1, 1444:1, 1445:1, 1446:1, 1447:1, 1448:1, 1449:1, 1450:1, 1451:1, 1452:1, 1453:1, 1454:1, 1455:1, 1456:1, 1457:1, 1458:1, 1459:1, 1460:1, 1461:1, 1462:1, 1463:1, 1464:1, 1465:1, 1466:1, 1467:1, 1468:1, 1469:1, 1470:1, 1471:1, 1472:1, 1473:1, 1474:1, 1475:1, 1476:1, 1477:1, 1478:1, 1479:1, 1480:1, 1481:1, 1482:1, 1483:1, 1484:1, 1485:1, 1486:1, 1487:1, 1488:1, 1489:1, 1490:1, 1491:1, 1492:1, 1493:1, 1494:1, 1495:1, 1496:1, 1497:1, 1498:1, 1499:1, 1500:1, 1501:1, 1502:1, 1503:1, 1504:1, 1505:1, 1506:1, 1507:1, 1508:1, 1509:1, 1510:1, 1511:1, 1512:1, 1513:1, 1514:1, 1515:1, 1516:1, 1517:1, 1518:1, 1519:1, 1520:1, 1521:1, 1522:1, 1523:1, 1524:1, 1525:1, 1526:1, 1527:1, 1528:1, 1529:1, 1530:1, 1531:1, 1532:1, 1533:1, 1534:1, 1535:1, 1536:1, 1537:1, 1538:1, 1539:1, 1540:1, 1541:1, 1542:1, 1543:1, 1544:1, 1545:1, 1546:1, 1547:1, 1548:1, 1549:1, 1550:1, 1551:1, 1552:1, 1553:1, 1554:1, 1555:1, 1556:1, 1557:1, 1558:1, 1559:1, 1560:1, 1561:1, 1562:1, 1563:1, 1564:1, 1565:1, 1566:1, 1567:1, 1568:1, 1569:1, 1570:1, 1571:1, 1572:1, 1573:1, 1574:1, 1575:1, 1576:1, 1577:1, 1578:1, 1579:1, 1580:1, 1581:1, 1582:1, 1583:1, 1584:1, 1585:1, 1586:1, 1587:1, 1588:1, 1589:1, 1590:1, 1591:1, 1592:1, 1593:1, 1594:1, 1595:1, 1596:1, 1597:1, 1598:1, 1599:1, 1600:1, 1601:1, 1602:1, 1603:1, 1604:1, 1605:1, 1606:1, 1607:1, 1608:1, 1609:1, 1610:1, 1611:1, 1612:1, 1613:1, 1614:1, 1615:1, 1616:1, 1617:1, 1618:1, 1619:1, 1620:1, 1621:1, 1622:1, 1623:1, 1624:1, 1625:1, 1626:1, 1627:1, 1628:1, 1629:1, 1630:1, 1631:1, 1632:1, 1633:1, 1634:1, 1635:1, 1636:1, 1637:1, 1638:1, 1639:1, 1640:1, 1641:1, 1642:1, 1643:1, 1644:1, 1645:1, 1646:1, 1647:1, 1648:1, 1649:1, 1650:1, 1651:1, 1652:1, 1653:1, 1654:1, 1655:1, 1656:1, 1657:1, 1658:1, 1659:1, 1660:1, 1661:1, 1662:1, 1663:1, 1664:1, 1665:1, 1666:1, 1667:1, 1668:1, 1669:1, 1670:1, 1671:1, 1672:1, 1673:1, 1674:1, 1675:1, 1676:1, 1677:1, 1678:1, 1679:1, 1680:1, 1681:1, 1682:1, 1683:1, 1684:1, 1685:1, 1686:1, 1687:1, 1688:1, 1689:1, 1690:1, 1691:1, 1692:1, 1693:1, 1694:1, 1695:1, 1696:1, 1697:1, 1698:1, 1699:1, 1700:1, 1701:1, 1702:1, 1703:1, 1704:1, 1705:1, 1706:1, 1707:1, 1708:1, 1709:1, 1710:1, 1711:1, 1712:1, 1713:1, 1714:1, 1715:1, 1716:1, 1717:1, 1718:1, 1719:1, 1720:1, 1721:1, 1722:1, 1723:1, 1724:1, 1725:1, 1726:1, 1727:1, 1728:1, 1729:1, 1730:1, 1731:1, 1732:1, 1733:1, 1734:1, 1735:1, 1736:1, 1737:1, 1738:1, 1739:1, 1740:1, 1741:1, 1742:1, 1743:1, 1744:1, 1745:1, 1746:1, 1747:1, 1748:1, 1749:1, 1750:1, 1751:1, 1752:1, 1753:1, 1754:1, 1755:1, 1756:1, 1757:1, 1758:1, 1759:1, 1760:1, 1761:1, 1762:1, 1763:1, 1764:1, 1765:1, 1766:1, 1767:1, 1768:1, 1769:1, 1770:1, 1771:1, 1772:1, 1773:1, 1774:1, 1775:1, 1776:1, 1777:1, 1778:1, 1779:1, 1780:1, 1781:1, 1782:1, 1783:1, 1784:1, 1785:1, 1786:1, 1787:1, 1788:1, 1789:1, 1790:1, 1791:1, 1792:1, 1793:1, 1794:1, 1795:1, 1796:1, 1797:1, 1798:1, 1799:1, 1800:1, 1801:1, 1802:1, 1803:1, 1804:1, 1805:1, 1806:1, 1807:1, 1808:1, 1809:1, 1810:1, 1811:1, 1812:1, 1813:1, 1814:1, 1815:1, 1816:1, 1817:1, 1818:1, 1819:1, 1820:1, 1821:1, 1822:1, 1823:1, 1824:1, 1825:1, 1826:1, 1827:1, 1828:1, 1829:1, 1830:1, 1831:1, 1832:1, 1833:1, 1834:1, 1835:1, 1836:1, 1837:1, 1838:1, 1839:1, 1840:1, 1841:1, 1842:1, 1843:1, 1844:1, 1845:1, 1846:1, 1847:1, 1848:1, 1849:1, 1850:1, 1851:1, 1852:1, 1853:1, 1854:1, 1855:1, 1856:1, 1857:1, 1858:1, 1859:1, 1860:1, 1861:1, 1862:1, 1863:1, 1864:1, 1865:1, 1866:1, 1867:1, 1868:1, 1869:1, 1870:1, 1871:1, 1872:1, 1873:1, 1874:1, 1875:1, 1876:1, 1877:1, 1878:1, 1879:1, 1880:1, 1881:1, 1882:1, 1883:1, 1884:1, 1885:1, 1886:1, 1887:1, 1888:1, 1889:1, 1890:1, 1891:1, 1892:1, 1893:1, 1894:1, 1895:1, 1896:1, 1897:1, 1898:1, 1899:1, 1900:1, 1901:1, 1**

<p>655:21, 655:23, 656:2, 656:5, 656:18, 657:3, 659:21, 660:14, 660:17, 664:11, 664:14, 664:16, 666:11, 666:13, 666:19, 667:5, 668:15, 669:8, 669:13, 672:6, 672:10, 672:12, 673:10, 673:13, 673:17, 675:24, 676:1, 678:19, 678:20, 678:23, 679:2, 680:13, 680:15, 681:9, 681:15, 681:24, 682:3, 682:7, 682:16, 682:18, 682:19, 682:21, 682:25, 683:6, 683:22, 685:6, 685:11, 685:14, 685:22, 685:25, 686:4 <b>MULTIPLE</b> [1] - 667:18 <b>MUNITIONS</b> [1] - 639:17 <b>MYSTERY</b> [7] - 669:14, 671:6, 671:25, 672:22, 672:24, 676:25, 679:3</p>	<p>647:20, 650:11, 651:21, 653:12, 654:8, 670:23, 681:23, 681:25 <b>NICE</b> [1] - 680:22 <b>NO</b> [2] - 618:6, 687:19 <b>NOSSAMAN</b> [2] - 619:4, 619:9 <b>NOTE</b> [1] - 685:22 <b>NOTED</b> [1] - 662:22 <b>NOTHING</b> [7] - 632:8, 658:25, 659:7, 661:13, 665:13, 667:5, 680:15 <b>NOTIFICATIONS</b> [2] - 664:6, 664:9 <b>NOTIFIED</b> [1] - 662:22 <b>NOTIFY</b> [1] - 682:10 <b>NOVEMBER</b> [3] - 618:14, 622:1, 687:15 <b>NOVEMBER</b> [3] - 656:20, 657:7, 657:8 <b>NUMBER</b> [1] - 621:3 <b>NUMBER</b> [3] - 655:11, 655:13, 669:15 <b>NUMBERS</b> [2] - 642:6, 668:24</p>	<p>687:5, 687:19 <b>OFFICIALLY</b> [1] - 633:3 <b>OFFSITE</b> [6] - 628:18, 628:21, 628:24, 675:13, 677:1, 677:3 <b>OFTEN</b> [2] - 653:18, 658:14 <b>OIL</b> [2] - 623:14, 623:16 <b>ONCE</b> [2] - 659:2, 662:10 <b>ONE</b> [29] - 623:2, 623:25, 627:3, 627:24, 629:25, 631:8, 631:9, 631:10, 635:20, 637:1, 638:14, 641:19, 645:19, 651:20, 652:3, 654:22, 659:5, 659:15, 661:24, 661:25, 662:1, 667:12, 670:7, 678:20, 681:4, 683:11, 684:16 <b>ONES</b> [1] - 628:23 <b>ONSITE</b> [8] - 625:5, 625:14, 625:15, 640:21, 649:23, 650:4, 664:7 <b>OOO</b> [1] - 622:3 <b>OPEN</b> [5] - 622:6, 640:21, 646:5, 680:21, 680:25 <b>OPERATION</b> [6] - 624:6, 624:13, 624:23, 625:1, 628:2, 630:19 <b>OPERATIONS</b> [3] - 642:21, 645:18, 663:25 <b>OPERATOR</b> [3] - 660:12, 662:12 <b>OPINION</b> [9] - 629:5, 630:15, 638:15, 638:21, 639:22, 641:2, 675:13, 680:3, 680:6 <b>OPINIONS</b> [2] - 638:18, 673:18 <b>OPPORTUNITY</b> [1] - 682:8 <b>OPPOSED</b> [1] - 666:17 <b>OPTION</b> [2] - 628:21, 628:22 <b>ORDER</b> [2] - 621:4, 621:10 <b>ORDER</b> [20] - 626:12,</p>	<p>650:25, 651:2, 652:17, 655:17, 656:7, 656:10, 656:21, 656:24, 659:10, 659:18, 661:12, 661:13, 661:17, 662:4, 662:5, 662:6, 662:18, 663:21, 672:13 <b>ORDERED</b> [1] - 686:2 <b>ORDERS</b> [7] - 661:23, 661:24, 663:24, 664:3, 664:4 <b>ORDINANCE</b> [4] - 639:16, 639:24, 641:10, 641:15 <b>ORGANIC</b> [1] - 623:19 <b>ORGANICS</b> [1] - 650:20 <b>ORIGINALLY</b> [1] - 666:9 <b>OUTLINED</b> [1] - 630:6 <b>OUTSIDE</b> [2] - 680:25, 681:2 <b>OVERFILLS</b> [1] - 624:17 <b>OVERFLOW</b> [2] - 665:16, 666:8 <b>OVERFLOWING</b> [1] - 666:22 <b>OVERLAP</b> [1] - 636:7 <b>OVERNIGHT</b> [1] - 681:7 <b>OVERWHELMING</b> [3] - 641:24, 642:2, 642:7 <b>OWN</b> [2] - 640:7, 675:8 <b>OWNER</b> [3] - 660:11, 662:11, 662:12</p>	<p>665:5, 670:5, 670:13, 670:15, 670:23, 670:24, 671:3, 671:4, 673:23, 673:24, 676:13, 676:24, 678:8, 678:13, 679:3, 679:9, 679:12 <b>PAGE</b> [2] - 620:3, 687:11 <b>PAGES</b> [1] - 618:8 <b>PAGES</b> [3] - 630:14, 636:20, 641:22 <b>PAPER</b> [2] - 671:22, 678:4 <b>PARAGRAPH</b> [11] - 638:24, 639:5, 641:5, 648:2, 652:25, 653:8, 653:12, 668:22, 679:13, 679:16 <b>PARALEGAL</b> [1] - 631:11 <b>PARAMETERS</b> [1] - 650:15 <b>PARENS</b> [2] - 634:2, 634:4 <b>PART</b> [13] - 634:25, 635:1, 635:20, 636:13, 638:24, 643:20, 645:3, 649:14, 651:3, 651:25, 653:10, 653:25, 663:11 <b>PARTIALLY</b> [1] - 623:3 <b>PARTICIPATION</b> [2] - 666:1, 666:25 <b>PARTICULAR</b> [4] - 625:4, 637:9, 642:5, 671:23 <b>PARTICULARLY</b> [1] - 683:13 <b>PARTIES</b> [4] - 660:2, 684:7, 684:16, 684:22 <b>PARTS</b> [3] - 645:17, 671:22, 678:4 <b>PARTY</b> [5] - 661:12, 674:25, 675:19, 675:23, 676:2 <b>PAST</b> [2] - 622:23, 626:25 <b>PATRICK</b> [1] - 672:17 <b>PATRICK</b> [1] - 619:5 <b>PCE</b> [7] - 634:5, 635:21, 636:3, 636:6, 636:7, 636:8, 639:4 <b>PELOQUIN</b> [1] -</p>
<p><b>N</b></p> <p><b>NAJM</b> [2] - 684:3, 684:5 <b>NAME</b> [6] - 668:20, 668:25, 669:4, 669:5, 674:8, 685:17 <b>NAMES</b> [1] - 647:17 <b>NATURE</b> [1] - 653:15 <b>NECESSARILY</b> [1] - 651:25 <b>NEED</b> [9] - 637:20, 647:1, 651:15, 666:6, 677:12, 682:24, 683:9, 683:10, 685:10 <b>NEEDED</b> [1] - 676:7 <b>NEEDS</b> [1] - 659:7 <b>NEVER</b> [3] - 640:2, 649:21, 665:23 <b>NEW</b> [1] - 644:20 <b>NEWS</b> [1] - 680:19 <b>NEXT</b> [11] - 630:14, 637:3, 643:24,</p>	<p><b>O</b></p> <p><b>O'CLOCK</b> [1] - 686:3 <b>OATH</b> [2] - 622:10, 634:23 <b>OBJECT</b> [2] - 635:4, 640:24 <b>OBJECTION</b> [5] - 629:12, 635:7, 640:8, 666:11, 675:24 <b>OBLIGATED</b> [1] - 661:19 <b>OBSERVATION</b> [1] - 654:24 <b>OBSERVE</b> [1] - 643:2 <b>OBSERVED</b> [3] - 642:20, 668:24, 678:9 <b>OBTAINED</b> [1] - 647:21 <b>OCCUR</b> [1] - 683:18 <b>OCEAN</b> [1] - 628:20 <b>OF</b> [11] - 618:2, 618:13, 619:1, 620:1, 621:1, 687:1, 687:7, 687:9, 687:12, 687:15 <b>OFFICE</b> [1] - 662:22 <b>OFFICIAL</b> [4] - 618:24, 687:1,</p>	<p><b>OPINION</b> [9] - 629:5, 630:15, 638:15, 638:21, 639:22, 641:2, 675:13, 680:3, 680:6 <b>OPINIONS</b> [2] - 638:18, 673:18 <b>OPPORTUNITY</b> [1] - 682:8 <b>OPPOSED</b> [1] - 666:17 <b>OPTION</b> [2] - 628:21, 628:22 <b>ORDER</b> [2] - 621:4, 621:10 <b>ORDER</b> [20] - 626:12,</p>	<p><b>OPPOSED</b> [1] - 647:6, 649:19, 650:11, 650:14, 652:24, 653:21, 656:9, 656:10, 657:1, 657:5, 657:10, 660:8, 662:14, 665:4, 665:5, 670:5, 670:13, 670:15, 670:23, 670:24, 671:3, 671:4, 673:23, 673:24, 676:13, 676:24, 678:8, 678:13, 679:3, 679:9, 679:12 <b>PAGE</b> [2] - 620:3, 687:11 <b>PAGES</b> [1] - 618:8 <b>PAGES</b> [3] - 630:14, 636:20, 641:22 <b>PAPER</b> [2] - 671:22, 678:4 <b>PARAGRAPH</b> [11] - 638:24, 639:5, 641:5, 648:2, 652:25, 653:8, 653:12, 668:22, 679:13, 679:16 <b>PARALEGAL</b> [1] - 631:11 <b>PARAMETERS</b> [1] - 650:15 <b>PARENS</b> [2] - 634:2, 634:4 <b>PART</b> [13] - 634:25, 635:1, 635:20, 636:13, 638:24, 643:20, 645:3, 649:14, 651:3, 651:25, 653:10, 653:25, 663:11 <b>PARTIALLY</b> [1] - 623:3 <b>PARTICIPATION</b> [2] - 666:1, 666:25 <b>PARTICULAR</b> [4] - 625:4, 637:9, 642:5, 671:23 <b>PARTICULARLY</b> [1] - 683:13 <b>PARTIES</b> [4] - 660:2, 684:7, 684:16, 684:22 <b>PARTS</b> [3] - 645:17, 671:22, 678:4 <b>PARTY</b> [5] - 661:12, 674:25, 675:19, 675:23, 676:2 <b>PAST</b> [2] - 622:23, 626:25 <b>PATRICK</b> [1] - 672:17 <b>PATRICK</b> [1] - 619:5 <b>PCE</b> [7] - 634:5, 635:21, 636:3, 636:6, 636:7, 636:8, 639:4 <b>PELOQUIN</b> [1] -</p>	

683:23	PLAINTIFF'S [2] -	PROCEDURE [6] -	631:4, 685:16	READING [4] -
<b>PENALTY</b> [2] - 670:4, 671:17	637:22, 637:24	628:5, 682:8, 683:12, 684:8, 684:15, 684:25	<b>PULL</b> [3] - 649:24, 655:16, 669:13	636:17, 640:23, 647:23, 666:15
<b>PEOPLE</b> [6] - 629:23, 656:15, 674:20, 674:23, 674:24, 680:20	<b>PLAINTIFFS</b> [1] -	<b>PROCEDURES</b> [1] -	<b>PURCHASED</b> [1] -	<b>READS</b> [1] -
<b>PERCENTAGE</b> [1] - 623:8	637:16	621:5	660:19	<b>READY</b> [3] -
<b>PERCHLORATE</b> [17] -	<b>PLAN</b> [14] - 647:9, 648:1, 648:12, 653:7, 653:11, 653:14, 653:24, 654:7, 657:14, 657:19, 657:21, 657:23, 682:13	<b>PROCEDURES</b> [5] -	<b>PURE</b> [2] - 625:20, 627:9	634:2, 622:14, 622:19, 622:20
622:24, 622:25, 623:2, 623:11, 623:13, 628:15, 628:18, 629:6, 629:10, 629:15, 630:8, 639:11, 639:16, 641:3, 643:11, 644:3, 644:7	<b>PLASTIC</b> [3] - 646:5, 671:22, 678:3	<b>PROCEEDINGS</b> [1] -	<b>PURPOSE</b> [5] - 637:8, 640:17, 651:20, 659:5	<b>REALLY</b> [4] -
<b>PERFORMING</b> [1] - 642:13	<b>PLURAL</b> [1] - 640:13	<b>PROCEEDINGS</b> [3] -	<b>PURPOSES</b> [3] -	625:22, 625:22, 646:7, 682:21, 684:23
<b>PERHAPS</b> [1] - 684:19	<b>POINT</b> [2] - 643:6, 643:9	<b>PROCESS</b> [12] -	627:8, 654:17, 654:18	<b>REALTIME</b> [1] -
<b>PERIOD</b> [3] - 636:6, 637:11, 659:10	<b>POINTS</b> [2] - 642:16, 655:24	624:25, 627:23, 641:17, 642:22, 645:4, 653:18, 653:25, 654:1, 654:6, 654:8, 654:18, 655:4	<b>PURSUANT</b> [3] -	687:5
<b>PERJURY</b> [2] - 670:4, 671:17	<b>POST</b> [2] - 659:8, 659:13	624:9	<b>PURSUANT</b> [1] -	<b>REASON</b> [14] -
<b>PERMIT</b> [6] - 629:3, 643:9, 644:1, 644:15, 644:17, 646:20	<b>POST-CLOSURE</b> [2] -	<b>PRODUCT</b> [1] - 636:4	662:1, 662:5	625:8, 639:21, 647:16, 647:18, 649:11, 649:20, 657:17, 661:6, 661:16, 662:16, 663:8, 663:10, 663:11
<b>PERMITS</b> [2] - 643:4, 643:6	659:8, 659:13	<b>PRODUCTION</b> [6] -	<b>PUT</b> [9] - 626:24, 628:4, 636:21, 651:23, 652:2, 654:7, 664:21, 678:8	<b>REASONABLE</b> [1] -
<b>PERMITTED</b> [7] - 629:1, 629:11, 629:16, 667:24, 668:21, 669:1, 669:5	<b>POTENTIAL</b> [3] -	639:17, 650:7, 650:13, 650:14, 650:17, 650:20	<b>PUTTING</b> [2] - 632:9, 651:25	677:24
<b>PERSONALLY</b> [1] - 638:7	625:25, 628:1, 684:8	<b>PROFESSIONAL</b> [3] -	<b>PYROTECHNIC</b> [1] -	<b>REASONS</b> [1] -
<b>PERSONNEL</b> [1] - 674:1	<b>PRECISE</b> [1] - 655:1	638:8, 645:13, 658:13	640:20	627:3
<b>PG</b> [2] - 621:3	<b>PREDECESSOR</b> [2] -	<b>PROGRAM</b> [2] -	<b>Q</b>	<b>REBUTTAL</b> [1] -
<b>PH.D</b> [2] - 620:4, 622:15	647:13, 673:5	653:17, 654:13		638:20
<b>PHRASE</b> [1] - 665:2	<b>PRELIMINARY</b> [1] -	<b>PRONOUNCE</b> [1] -		<b>RECALLING</b> [3] -
<b>PICKED</b> [1] - 637:8	653:14	638:11		646:16, 648:24, 682:2
<b>PIECES</b> [1] - 637:10	<b>PREPARE</b> [1] - 653:23	<b>PROPELLANT</b> [2] -		<b>RECEIVE</b> [1] - 629:16
<b>PIPES</b> [1] - 624:16	<b>PREPARED</b> [2] -	623:12, 641:3		<b>RECEIVED</b> [14] -
<b>PIT</b> [1] - 642:25	634:13, 679:8	<b>PROPELLANTS</b> [1] -		628:7, 647:3,
<b>PITS</b> [2] - 640:18, 641:6	<b>PRESENCE</b> [4] -	640:21		652:11, 656:1, 656:3, 659:19, 663:23, 664:6, 664:9, 667:4, 669:10, 669:11, 673:15, 676:2
<b>PLACE</b> [8] - 635:21, 641:11, 644:3, 645:14, 651:7, 651:19, 668:6, 683:2	622:6, 645:14, 680:25, 681:2	<b>PROPERTY</b> [6] -		<b>RECEIVES</b> [2] -
<b>PLACED</b> [1] - 684:21	<b>PRESENT</b> [1] - 619:18	640:17, 650:8, 660:20, 661:10, 662:11, 675:8		667:24, 675:19
<b>PLACING</b> [2] - 651:20, 652:6	<b>PRESENT</b> [5] - 622:9, 642:16, 670:24, 676:19	<b>PROPOSAL</b> [1] -		<b>RECEIVING</b> [4] -
<b>PLAINTIFF</b> [2] - 637:12, 685:20	<b>PRESENTING</b> [1] -	636:4		674:14, 674:15, 676:6, 676:11
<b>PLAINTIFF</b> [3] - 618:6, 619:3, 622:16	685:15	<b>PROTECTION</b> [2] -		<b>RECENT</b> [1] - 649:25
	<b>PRESSED</b> [1] - 684:21	670:10, 671:16		<b>RECENTLY</b> [1] - 661:2
	<b>PRETTY</b> [1] - 672:18	<b>PROVIDE</b> [3] - 669:22, 673:25, 685:17		<b>RECESS</b> [2] - 685:5, 686:1
	<b>PREVIOUS</b> [1] -	<b>PROVIDED</b> [6] -		<b>RECOGNIZE</b> [2] -
	650:14	631:8, 665:24, 671:14, 671:15, 674:3, 679:5		653:13
	<b>PREVIOUSLY</b> [1] -	<b>PRP</b> [5] - 661:9, 661:10, 662:11, 662:13		<b>RECOLLECTION</b> [3] -
	622:16	<b>PUBLISH</b> [1] - 668:12		623:6, 623:7, 655:3
	<b>PRIMARILY</b> [1] -	<b>PUBLISHED</b> [2] -		<b>RECOMMENDED</b> [1] -
	623:9			650:12
	<b>PRIORITY</b> [1] - 652:5			<b>RECOMMENDING</b> [1] -
	<b>PRIVATE</b> [1] - 658:15			- 672:2
	<b>PROBLEMS</b> [4] -			<b>RECONDENSED</b> [1] -
	665:16, 665:22, 666:20, 667:9			624:19
				<b>RECORD</b> [3] - 622:7, 681:2, 685:14
				<b>RECORDS</b> [3] - 623:7, 669:3, 670:2
				<b>RECOVER</b> [2] -
				626:19, 663:4

<b>RECOVERING</b> [1] - 627:6	665:24	636:11, 636:16, 636:17, 636:20, 636:21, 636:22, 638:9, 638:14, 638:20, 639:3, 639:7, 640:10, 642:4, 650:9, 670:16	<b>RESUMED</b> [1] - 620:5 <b>RESUMED</b> [1] - 622:17	647:21 <b>SAMPLING</b> [4] - 650:3, 650:11, 650:19, 650:21
<b>RECROSS</b> [1] - 620:6	<b>RELATE</b> [3] - 638:1, 643:1, 653:4	638:10, 657:25	<b>REUSE</b> [5] - 624:21, 626:12, 626:19, 626:23, 627:10	<b>SAN</b> [2] - 619:11, 619:16
<b>RECROSS</b> [1] - 672:11	<b>RELATED</b> [3] - 636:4, 640:14, 645:24	642:4, 650:9, 670:16	<b>REUSED</b> [1] - 624:19	<b>SANTA</b> [5] - 622:8, 660:18, 660:22, 661:11, 662:24
<b>RECROSS-</b>	<b>RELATES</b> [3] - 626:8, 626:10, 657:25	670:12, 680:11	<b>REVIEW</b> [8] - 628:13, 636:25, 637:4, 637:6, 640:1, 659:12, 674:3, 680:1	<b>SANTA</b> [1] - 618:5
<b>EXAMINATION</b> [1] - 620:6	<b>RELATION</b> [1] - 645:22	687:10	<b>REVIEWED</b> [8] - 636:11, 636:20, 638:18, 641:21, 641:22, 642:21, 665:3, 673:20	<b>SATISFACTION</b> [2] - 658:20, 664:8
<b>RECROSS-</b>	<b>RELATIVE</b> [1] - 633:5	687:13	<b>REVIEWING</b> [2] - 650:5, 667:6	<b>SATISFIED</b> [2] - 658:18, 684:15
<b>EXAMINATION</b> [1] - 672:11	<b>RELEASE</b> [2] - 625:1, 627:24	690:12, 680:11	<b>RICHARD</b> [29] - 619:5, 622:15, 629:12, 632:6, 635:4, 640:22, 655:21, 656:2, 664:14, 664:16, 666:13, 666:19, 667:5, 668:15, 669:8, 669:13, 672:6, 675:24, 678:20, 678:23, 679:2, 680:13, 682:7, 682:16, 682:19, 682:21, 683:22, 685:11, 685:22	<b>SATISFY</b> [1] - 684:9
<b>RED</b> [1] - 645:14	<b>RELEASED</b> [1] - 666:22	687:15	<b>RICHARD</b> [7] - 620:4, 620:5, 620:6, 655:18, 681:22, 682:5, 683:19	<b>SAW</b> [6] - 640:1, 640:2, 640:5, 642:19, 644:9, 645:24
<b>REDIRECT</b> [1] - 679:1	<b>RELEASES</b> [9] - 624:3, 624:9, 624:10, 624:12, 624:18, 624:22, 627:14, 627:20, 627:25	688:19	<b>REPRESENTATIONS</b>	<b>SCENARIOS</b> [1] - 681:10
<b>REDIRECT</b> [1] - 620:5	<b>RELIED</b> [4] - 635:17, 638:13, 659:22, 666:18	689:1 - 677:25	[1] - 677:25	<b>SCIENTIFIC</b> [1] - 677:24
<b>REDIRECT</b> [4] - 620:6, 664:13, 664:15, 672:19	<b>RELY</b> [1] - 639:1	<b>REPRESENTATIVE</b>	[1] - 667:25	<b>SCLLC</b> [7] - 660:24, 662:7, 662:18, 662:22, 663:6, 663:12, 663:16
<b>REFER</b> [2] - 635:25, 640:10	<b>RELYING</b> [1] - 641:1	<b>REPRESENTED</b> [1] - 677:5	<b>REPRESENTED</b> [1] - 677:5	<b>SCOTT</b> [1] - 619:9
<b>REFERENCE</b> [9] - 641:9, 665:9, 665:10, 667:8, 671:2, 671:7, 674:12, 677:2, 679:11	<b>REMAIN</b> [1] - 681:1	<b>REQUEST</b> [1] - 635:20	<b>REPRESENTED</b> [1] - 677:5	<b>SCOTT</b> [1] - 619:19
<b>REFERENCED</b> [3] - 642:3, 650:14, 670:25	<b>REMEDIATING</b> [1] - 663:17	<b>REQUIRED</b> [6] - 639:17, 646:21, 646:22, 648:22, 649:9, 664:3	<b>REQUEST</b> [1] - 635:20	<b>SCRAP</b> [4] - 671:21, 671:22, 678:3, 678:4
<b>REFERENCES</b> [2] - 641:9, 641:11	<b>REMEDIATION</b> [4] - 662:2, 663:22, 664:7, 664:10	<b>REQUIREMENTS</b> [4] - 640:19, 641:4, 641:8, 661:25	<b>REQUEST</b> [1] - 635:20	<b>SCREEN</b> [8] - 630:10, 632:8, 632:11, 647:8, 656:14, 664:19, 664:21, 664:23
<b>REFERENCING</b> [2] - 639:15, 641:15	<b>REMEMBER</b> [3] - 648:17, 680:20, 682:16	<b>REQUIRES</b> [1] - 668:19	<b>REQUEST</b> [1] - 635:20	<b>SEATED</b> [1] - 681:1
<b>REFERRED</b> [1] - 640:17	<b>REMEMBERING</b> [2] - 642:5, 673:8	<b>REREADING</b> [1] - 637:7	<b>REQUEST</b> [1] - 635:20	<b>SECOND</b> [2] - 668:22, 679:15
<b>REFERRING</b> [4] - 638:23, 639:23, 639:24, 640:3	<b>REMIND</b> [3] - 670:18, 682:1, 684:7	<b>RESERVOIRS</b> [1] - 624:17	<b>REQUEST</b> [1] - 635:20	<b>SECTION</b> [8] - 628:11, 630:12, 639:8, 639:11, 657:11, 660:9, 662:14, 662:20
<b>REFERS</b> [6] - 635:20, 640:12, 658:1, 665:14, 668:17, 669:18	<b>REMOTE</b> [1] - 640:17	<b>RESOLVED</b> [2] - 644:19, 685:9	<b>REQUEST</b> [1] - 635:20	<b>SECTION</b> [1] - 687:8
<b>REFLECT</b> [1] - 681:7	<b>REMOVE</b> [1] - 626:22	<b>RESPONDENT</b> [1] - 662:23	<b>REQUEST</b> [1] - 635:20	<b>SECTOR</b> [1] - 658:15
<b>REGARD</b> [1] - 681:6	<b>REMOVED</b> [8] - 644:1, 677:20, 678:15, 679:10, 679:18, 679:21, 680:2, 680:3	<b>RESPONSE</b> [2] - 670:22, 671:20	<b>REQUEST</b> [1] - 635:20	<b>SEE</b> [28] - 630:9, 632:13, 632:14, 635:2, 638:23, 642:10, 643:1, 644:5, 648:3, 648:6, 648:7, 653:13, 657:11, 657:12, 660:10, 665:10, 665:18, 670:5, 670:13, 670:24, 671:5, 672:3, 672:5, 672:25, 674:3, 679:11, 679:13, 682:8
<b>REGARDING</b> [2] - 667:9, 670:2	<b>REMOVING</b> [1] - 680:8	<b>RESPONSIBLE</b> [1] - 663:9	<b>REQUEST</b> [1] - 635:20	
<b>REGIONAL</b> [2] - 647:5, 648:20	<b>RENDERED</b> [1] - 638:18	<b>REST</b> [1] - 665:11	<b>SAFE</b> [1] - 680:22	
<b>REGIONAL</b> [7] - 649:7, 650:21, 664:25, 665:13, 665:20, 666:23, 667:7	<b>REOPENED</b> [2] - 659:5, 659:13	<b>RESTING</b> [1] - 668:6	<b>SAFETY</b> [5] - 639:16, 639:24, 640:20, 641:10, 641:16	
<b>REGULATIONS</b> [2] - 641:4, 646:23	<b>REPEAT</b> [2] - 637:15, 644:4	<b>RESULT</b> [4] - 623:3, 624:22, 645:18, 650:16	<b>SAMPLE</b> [6] - 642:3, 642:4, 642:5, 648:13, 650:7	
<b>REGULATIONS</b> [1] - 687:12	<b>REPHRASE</b> [2] - 664:5, 666:13	<b>RESULTS</b> [6] - 647:21, 648:3, 648:7, 648:13, 653:15, 679:13	<b>SAMPLE-TO-</b>	
<b>REGULATORS</b> [1] - 672:14	<b>REPORT</b> [29] - 629:25, 630:2, 630:3, 630:5, 631:1, 632:2, 632:3, 632:16, 633:18, 634:10, 634:11, 634:14, 634:24,	662:17	<b>SAMPLE</b> [1] - 642:3	
<b>REGULATORY</b> [1] -			<b>SAMPLED</b> [2] - 649:23, 650:4	
			<b>SAMPLES</b> [2] - 642:9,	

<b>SEEING</b> [2] - 647:23, 652:13	657:6, 675:22, 676:2, 676:5, 676:10	624:22, 625:19, 625:20, 626:10, 626:17, 626:19, 626:23, 627:4, 627:7, 627:9	654:9, 654:10, 679:18, 683:9	647:10, 658:12
<b>SELLING</b> [1] - 661:9	<b>SIGNED</b> [3] - 657:7, 657:8, 670:7	<b>SOMEONE</b> [4] - 658:13, 663:14, 678:8, 678:17	<b>STARTED</b> [4] - 626:9, 635:9, 635:10, 637:10	<b>SUBROGEE</b> [1] - 638:10
<b>SEND</b> [4] - 628:17, 629:6, 629:10, 629:15	<b>SIGNIFICANT</b> [1] - 661:17	<b>SOMETIMES</b> [1] - 627:22	<b>STARTING</b> [1] - 662:15	<b>SUBSEQUENT</b> [5] - 634:17, 634:19, 634:21, 650:19, 652:2
<b>SENDING</b> [1] - 684:22	<b>SIGNS</b> [1] - 668:1	<b>SOMEWHERE</b> [2] - 629:3, 629:3, 657:24	<b>STARTS</b> [1] - 652:25	<b>SUBSEQUENTLY</b> [2] - 634:16, 634:17
<b>SENSE</b> [1] - 682:23	<b>SIMILAR</b> [1] - 662:3	<b>SORRY</b> [12] - 633:7, 637:1, 646:25, 647:23, 655:15, 656:6, 660:5, 661:23, 673:6, 673:11, 673:13, 679:18	<b>STATE</b> [4] - 658:20, 663:24, 664:8, 666:25	<b>SUBSTANCE</b> [1] - 679:10
<b>SENSED</b> [1] - 665:4	<b>SIMPLY</b> [2] - 628:17, 684:18	<b>SORSHER</b> [2] - 666:1, 679:5	<b>STATEMENT</b> [4] - 634:8, 634:14, 634:24, 639:1	<b>SUBSTANCES</b> [4] - 671:8, 671:10, 679:11, 680:8
<b>SENTENCE</b> [12] - 633:22, 633:23, 633:25, 647:20, 647:25, 648:25, 649:10, 649:18, 650:6, 679:15	<b>SIT</b> [3] - 646:16, 648:8, 648:15	<b>SORT</b> [1] - 645:14	<b>STATEMENTS</b> [1] - 639:5	<b>SUBSTANTIAL</b> [1] - 659:18
<b>SEPARATE</b> [3] - 624:21, 626:22, 627:3	<b>SITE</b> [31] - 623:3, 623:5, 623:9, 624:14, 628:22, 635:11, 636:1, 640:16, 641:23, 642:13, 643:7, 645:16, 645:23, 654:25, 655:11, 655:14, 657:6, 660:12, 661:6, 661:19, 661:24, 663:17, 663:22, 669:16, 670:20, 673:4, 675:19, 678:5, 680:8	<b>SOURCE</b> [7] - 624:4, 624:7, 625:11, 625:13, 625:16, 625:23, 637:24	<b>STATES</b> [4] - 618:1, 687:6, 687:8, 687:13	<b>SUBSURFACE</b> [1] - 654:4
<b>SEPARATING</b> [1] - 626:18	<b>SITES</b> [9] - 622:24, 622:25, 623:13, 623:19, 627:12, 639:4, 679:20, 679:23	<b>SOURCES</b> [7] - 623:21, 623:23, 623:25, 624:2, 625:25, 628:1, 681:17	<b>STATING</b> [1] - 637:18	<b>SUBTITLE</b> [1] - 668:18
<b>SEPARATION</b> [2] - 624:25, 640:19	<b>SITTING</b> [1] - 630:15	<b>SOUTH</b> [2] - 619:6, 644:15	<b>STATUS</b> [5] - 646:20, 660:9, 660:24, 660:25, 661:11	<b>SUFFICIENT</b> [1] - 677:8
<b>SEPARATOR</b> [2] - 626:7, 626:9	<b>SITUATION</b> [2] - 626:1, 662:10	<b>SPEAKING</b> [1] - 645:19	<b>STAY</b> [1] - 681:16	<b>SUIT</b> [1] - 638:12
<b>SEPARATORS</b> [3] - 624:20, 627:22, 627:24	<b>SITUATIONS</b> [2] - 626:1, 627:1	<b>SPECIFIC</b> [3] - 635:19, 642:4, 648:13	<b>STEADFAST</b> [1] - 638:10	<b>SUITE</b> [1] - 619:16
<b>SEPTEMBER</b> [1] - 647:11	<b>SIXTH</b> [1] - 673:24	<b>SPECIFICALLY</b> [4] - 625:6, 628:5, 634:22, 637:6	<b>STENOGRAPHICAL</b> <b>LY</b> [1] - 687:10	<b>SUITE</b> [1] - 618:24
<b>SERIES</b> [4] - 631:10, 661:23	<b>SLIPPAGE</b> [1] - 684:1	<b>SPECIFIED</b> [3] - 628:24, 636:3, 646:23	<b>STEP</b> [3] - 654:8, 663:17, 680:17	<b>SUMMARIZE</b> [1] - 666:17
<b>SERVICE</b> [1] - 647:10	<b>SLUDGE</b> [7] - 624:23, 625:4, 625:8, 625:11, 625:12, 625:17, 626:6	<b>SPECIFY</b> [2] - 643:15, 668:25	<b>STEPS</b> [1] - 669:16	<b>SUMP</b> [5] - 645:14, 645:19, 645:20, 645:24, 667:9
<b>SERVICES</b> [2] - 647:11, 673:5	<b>SMALL</b> [1] - 623:8	<b>SPECULATION</b> [1] - 643:19	<b>STILL</b> [4] - 622:10, 661:10, 662:11, 680:7	<b>SUMPS</b> [5] - 645:6, 645:22, 646:2, 646:13, 646:16
<b>SET</b> [2] - 684:8, 684:25	<b>SMITH</b> [2] - 663:21, 680:11	<b>SPECIFIED</b> [3] - 628:24, 636:3, 646:23	<b>STIPULATED</b> [2] - 652:10, 685:16	<b>SUPPLY</b> [1] - 685:18
<b>SEVERAL</b> [1] - 669:4	<b>SOIL</b> [4] - 647:20, 648:3, 648:7, 651:22	<b>SPECIFY</b> [2] - 643:15, 668:25	<b>STONE</b> [1] - 619:19	<b>SUPPOSED</b> [1] - 668:6
<b>SEWER</b> [2] - 626:24, 627:1	<b>SOLD</b> [3] - 660:21, 660:22, 662:11	<b>SPECULATION</b> [1] - 643:19	<b>STOP</b> [1] - 636:1	<b>SURFACE</b> [4] - 647:21, 665:10, 665:15, 665:25
<b>SHAPE</b> [2] - 637:16, 638:1	<b>SOLID</b> [8] - 655:9, 655:12, 655:13, 657:25, 658:5, 670:12, 670:16, 670:18	<b>SPEED</b> [1] - 666:16	<b>STORE</b> [2] - 643:11, 644:7	<b>SUSPECTED</b> [1] - 636:24
<b>SHARED</b> [1] - 665:19	<b>SOLUTION</b> [1] - 627:9	<b>SPEND</b> [1] - 681:4	<b>STORED</b> [1] - 624:8	<b>SUSTAIN</b> [1] - 640:7
<b>SHEER</b> [1] - 643:19	<b>SOLVENT</b> [17] - 624:7, 624:11, 624:15, 624:19, 624:21,	<b>SPENT</b> [2] - 667:6, 667:12	<b>STRAIGHTFORWAR</b> <b>DLY</b> [1] - 677:5	<b>SUSTAINED</b> [3] - 629:13, 635:7, 640:25
<b>SHIP</b> [1] - 629:3		<b>SPOT</b> [1] - 644:8	<b>STREET</b> [1] - 618:24	<b>SWITCH</b> [1] - 633:8
<b>SHIPPING</b> [2] - 628:21, 628:24		<b>STAND</b> [1] - 622:10	<b>STREET</b> [3] - 619:6, 619:10, 619:15	<b>SWITCHED</b> [1] - 631:20
<b>SHOCKED</b> [1] - 683:22		<b>STANIN</b> [2] - 683:17, 683:23	<b>STUDY</b> [1] - 665:21	<b>SWMUS</b> [2] - 655:10, 657:23
<b>SHOOTS</b> [1] - 623:10		<b>STANLEY</b> [1] - 618:3	<b>STUDYING</b> [1] - 627:18	<b>SWORN</b> [1] - 622:16
<b>SHOW</b> [3] - 630:14, 631:11, 650:19		<b>START</b> [6] - 635:13,	<b>STUFF</b> [3] - 636:20, 677:15, 680:10	<b>SYSTEM</b> [4] - 626:24, 627:2, 648:21, 649:8
<b>SHOWED</b> [1] - 647:22			<b>SUBJECT</b> [2] - 642:3, 680:21	
<b>SHOWN</b> [1] - 670:1			<b>SUBMIT</b> [1] - 653:18	
<b>SHOWS</b> [1] - 625:3			<b>SUBMITTED</b> [2] -	
<b>SIDE</b> [1] - 685:5				
<b>SIGN</b> [3] - 674:20, 675:16, 675:19				
<b>SIGNATURE</b> [3] - 657:1, 657:5, 674:13				
<b>SIGNATURES</b> [5] -				

<b>T</b>	<b>U</b>	<b>V</b>
<p><b>TABLE</b> [1] - 671:2</p> <p><b>TABULATED</b> [1] - 679:12</p> <p><b>TALKS</b> [1] - 647:20</p> <p><b>TAX</b> [1] - 667:18</p> <p><b>TCA</b> [11] - 631:20, 634:4, 635:9, 635:10, 635:11, 635:14, 635:21, 636:7, 637:4, 639:5</p> <p><b>TCE</b> [20] - 627:4, 631:18, 631:20, 632:18, 632:20, 633:12, 633:15, 634:3, 636:1, 636:2, 637:5, 637:14, 637:19, 637:25, 639:4, 641:25, 642:6, 645:3, 645:11</p> <p><b>TECHNICALLY</b> [1] - 656:15</p> <p><b>TEMPORARY</b> [2] - 644:14, 644:17</p> <p><b>TEN</b> [1] - 683:25</p> <p><b>TENS</b> [1] - 636:20</p> <p><b>TERM</b> [1] - 641:13</p> <p><b>TERMS</b> [7] - 623:18, 639:15, 641:14, 641:19, 651:5, 674:18, 679:9</p> <p><b>TEST</b> [3] - 647:21, 648:3, 648:7</p> <p><b>TESTIFIED</b> [1] - 663:20</p> <p><b>TESTIFY</b> [2] - 632:15, 678:10</p> <p><b>TESTIFYING</b> [2] - 666:12, 682:14</p> <p><b>TESTIMONY</b> [6] - 633:16, 642:20, 643:1, 675:25, 683:17, 685:15</p> <p><b>THAT</b> [3] - 687:7, 687:8, 687:11</p> <p><b>THE</b> [66] - 619:3, 619:12, 622:7, 622:12, 622:13, 622:16, 629:13, 629:20, 631:6, 631:13, 631:17, 632:8, 632:10, 635:7, 640:7, 640:25, 643:24, 648:14, 649:4, 649:14, 649:16, 649:18, 650:2, 650:5, 656:1, 656:17, 656:25,</p>	<p>660:13, 660:15, 660:16, 664:12, 664:13, 666:14, 667:1, 667:3, 669:10, 672:8, 672:9, 673:12, 678:22, 680:16, 681:1, 681:12, 681:21, 682:1, 682:4, 682:13, 682:20, 682:23, 683:3, 683:8, 684:7, 685:8, 685:13, 685:19, 685:24, 686:1, 687:6, 687:7, 687:8, 687:9, 687:10, 687:11, 687:12, 687:13</p> <p><b>THEIRS</b> [1] - 637:19</p> <p><b>THEMSELVES</b> [1] - 638:17</p> <p><b>THINKING</b> [1] - 628:19</p> <p><b>THIRD</b> [1] - 648:4</p> <p><b>THIS</b> [1] - 687:15</p> <p><b>THOROUGH</b> [1] - 663:21</p> <p><b>THOUSANDS</b> [2] - 636:20, 641:22</p> <p><b>THREE</b> [4] - 653:1, 665:16, 665:21, 666:5</p> <p><b>THREW</b> [1] - 651:14</p> <p><b>TIMING</b> [2] - 634:20, 651:3</p> <p><b>TITLE</b> [4] - 628:11, 638:8, 639:10, 670:16</p> <p><b>TITLE</b> [1] - 687:8</p> <p><b>TO</b> [2] - 618:8, 687:8</p> <p><b>TODAY</b> [6] - 625:10, 632:22, 632:23, 664:1, 682:7, 682:10</p> <p><b>TODAY'S</b> [1] - 627:16</p> <p><b>TOGETHER</b> [1] - 637:10</p> <p><b>TOMORROW</b> [1] - 682:10</p> <p><b>TOOK</b> [2] - 641:11, 677:13</p> <p><b>TOP</b> [2] - 655:5, 682:2</p> <p><b>TOPICS</b> [1] - 667:12</p> <p><b>TOTAL</b> [2] - 679:18, 679:21</p> <p><b>TOWARDS</b> [1] - 644:24</p> <p><b>TOXIC</b> [3] - 647:14, 656:11, 658:23</p> <p><b>TOXICITY</b> [2] - 633:4, 633:12</p> <p><b>TRANSCRIPT</b> [3] -</p> <p>618:13, 687:9, 687:11</p> <p><b>TRANSCRIPT</b> [2] - 633:17, 635:2</p> <p><b>TRANSITION</b> [1] - 639:4</p> <p><b>TRANSMITTING</b> [1] - 656:24</p> <p><b>TRANSPORTER</b> [2] - 675:15</p> <p><b>TRASH</b> [2] - 671:21, 678:3</p> <p><b>TRIAL</b> [1] - 681:6</p> <p><b>TRIAL</b> [1] - 618:13</p> <p><b>TRIED</b> [2] - 635:18, 636:25</p> <p><b>TROWBRIDGE</b> [1] - 619:15</p> <p><b>TRUDELL</b> [2] - 683:16, 683:23</p> <p><b>TRUE</b> [1] - 687:9</p> <p><b>TRUE</b> [6] - 631:19, 643:8, 647:18, 647:19, 657:18, 658:23</p> <p><b>TRY</b> [1] - 681:5</p> <p><b>TRYING</b> [2] - 635:19, 646:15</p> <p><b>TUESDAY</b> [4] - 683:5, 683:7, 683:24, 684:5</p> <p><b>TURN</b> [3] - 638:6, 665:5, 668:16</p> <p><b>TURNOUTS</b> [1] - 681:18</p> <p><b>TWO</b> [5] - 630:14, 640:18, 657:6, 681:19, 684:16</p> <p><b>TYPE</b> [4] - 627:24, 648:10, 665:9, 670:25</p> <p><b>TYPES</b> [5] - 623:8, 623:23, 624:3, 625:25, 646:4</p> <p><b>TYPICALLY</b> [2] - 667:23, 684:13</p> <p><b>U.S</b> [1] - 618:3</p> <p><b>UNDER</b> [15] - 622:10, 629:9, 634:23, 635:5, 639:14, 641:14, 642:13, 643:4, 646:20, 660:9, 668:18, 670:3, 671:17, 671:19, 678:13</p> <p><b>UNDERTAKEN</b> [2] - 646:1, 673:2</p> <p><b>UNIT</b> [2] - 670:19,</p>	<p>670:25</p> <p><b>UNITED</b> [3] - 638:12, 671:16, 671:24</p> <p><b>UNITED</b> [4] - 618:1, 687:6, 687:8, 687:13</p> <p><b>UNITS</b> [18] - 624:20, 627:21, 655:10, 655:12, 655:14, 657:15, 657:20, 658:1, 658:5, 658:7, 658:19, 658:21, 659:13, 659:14, 670:12, 670:17, 670:24</p> <p><b>UNLESS</b> [2] - 683:1, 685:4</p> <p><b>UNUSUAL</b> [3] - 627:18, 643:18, 659:8</p> <p><b>UP</b> [19] - 622:21, 628:4, 630:7, 630:10, 630:12, 637:8, 649:24, 655:16, 659:23, 661:6, 664:19, 664:21, 669:13, 673:10, 676:8, 681:10, 683:9, 684:8, 684:25</p> <p><b>USEPA</b> [4] - 621:7, 652:19, 670:8, 670:23</p> <p><b>USERS</b> [1] - 633:14</p> <p><b>USES</b> [2] - 632:19, 666:9</p> <p><b>V</b></p> <p><b>VALLEY</b> [1] - 618:5</p> <p><b>VALLEY</b> [6] - 622:8, 625:16, 640:18, 641:6, 641:19, 644:7</p> <p><b>VAPOR</b> [4] - 626:11, 626:15, 627:25</p> <p><b>VAPORIZED</b> [2] - 624:19, 626:11</p> <p><b>VAPORS</b> [1] - 624:14</p> <p><b>VARIES</b> [1] - 651:20</p> <p><b>VARIOUS</b> [3] - 623:21, 669:16, 672:1</p> <p><b>VERSUS</b> [2] - 622:8, 637:5</p> <p><b>VIDEO</b> [2] - 683:17, 683:23</p> <p><b>VIOLATION</b> [1] - 621:11</p> <p><b>VOC</b> [2] - 624:4, 627:20</p> <p><b>VOCS</b> [11] - 623:21, 623:24, 627:12,</p>
		<p>627:16, 641:23, 641:24, 646:8, 646:9, 650:17, 652:7</p> <p><b>VOLATILE</b> [1] - 623:19</p> <p><b>VOLUME</b> [1] - 618:8</p> <p><b>VS</b> [1] - 618:7</p> <p><b>W</b></p> <p><b>WAIVER</b> [1] - 635:20</p> <p><b>WAR</b> [5] - 645:3, 645:7, 645:8, 645:9, 645:12</p> <p><b>WAS</b> [1] - 622:16</p> <p><b>WASHINGTON</b> [1] - 619:15</p> <p><b>WASTE</b> [59] - 625:19, 627:5, 629:3, 629:4, 629:6, 629:10, 629:11, 629:15, 629:16, 630:7, 630:21, 639:11, 639:16, 639:17, 640:20, 644:3, 644:7, 655:9, 655:12, 655:13, 657:15, 657:20, 657:25, 658:4, 658:5, 658:19, 663:9, 663:11, 666:22, 667:24, 668:5, 668:22, 669:1, 669:6, 669:18, 670:12, 670:17, 670:18, 670:20, 672:1, 674:24, 675:1, 675:3, 675:4, 675:8, 675:12, 675:23, 676:3, 676:19, 677:3, 677:7, 677:14, 677:16, 677:20, 677:22, 680:2, 680:3</p> <p><b>WASTES</b> [5] - 641:7, 667:14, 671:11, 676:25, 677:3</p> <p><b>WATCH</b> [1] - 680:16</p> <p><b>WATER</b> [19] - 624:20, 624:21, 624:24, 626:7, 626:9, 626:14, 626:16, 626:17, 626:19, 626:20, 626:23, 626:24, 627:4, 627:7, 627:22, 649:25, 666:22, 685:18</p> <p><b>WATER</b> [1] - 618:5</p>

<b>WATER</b> [9] - 622:8, 649:7, 650:21, 664:25, 665:13, 665:20, 666:23, 667:7	677:5, 678:4, 678:11, 679:9, 680:7	639:1, 639:14, 639:22, 640:10, 640:12, 640:15, 641:2, 641:5
<b>WAYS</b> [1] - 625:1	<b>WHITTAKER</b> [1] - 618:8	<b>ZOCH'S</b> [4] - 630:2, 639:3, 639:7, 641:2
<b>WEDNESDAY</b> [1] - 684:5	<b>WHITTAKER'S</b> [5] - 638:15, 638:22, 639:2, 646:18, 669:2	
<b>WEEK</b> [2] - 681:23, 681:25	<b>WHOLE</b> [5] - 624:6, 627:23, 648:23, 663:10, 668:4	
<b>WEEKEND</b> [3] - 680:19, 680:22, 686:2	<b>WISHES</b> [1] - 685:11	
<b>WELCOME</b> [2] - 664:12, 672:8	<b>WITH</b> [1] - 687:12	
<b>WELLS</b> [12] - 637:18, 637:21, 637:25, 650:17, 651:1, 651:4, 651:5, 652:2, 652:6, 654:3, 654:7, 654:10	<b>WITNESS</b> [8] - 622:10, 650:5, 681:21, 682:2, 682:6, 683:5, 684:18, 685:7	
<b>WEST</b> [1] - 618:24	<b>WITNESS</b> [11] - 622:12, 631:6, 632:8, 632:10, 649:14, 649:18, 650:5, 660:16, 664:12, 667:3, 672:8	
<b>WESTERN</b> [1] - 618:2	<b>WITNESSES</b> [4] - 681:19, 683:12, 683:13, 683:19	
<b>WHITTAKER</b> [81] - 621:8, 622:8, 625:4, 628:14, 628:17, 629:6, 629:10, 629:15, 631:20, 632:17, 634:3, 637:23, 638:11, 642:13, 643:6, 643:10, 644:2, 644:6, 644:11, 644:14, 644:19, 646:19, 647:10, 650:25, 652:5, 652:18, 652:20, 653:6, 653:22, 655:11, 656:8, 657:8, 659:1, 660:20, 660:21, 661:7, 661:9, 661:12, 661:14, 661:18, 662:3, 662:7, 662:23, 663:5, 663:9, 663:15, 663:18, 663:21, 663:23, 664:6, 665:14, 665:19, 666:5, 666:24, 668:8, 669:19, 669:22, 670:7, 670:23, 671:6, 671:8, 671:17, 671:25, 673:4, 673:25, 674:15, 674:16, 675:5, 675:6, 675:7, 675:13, 675:23, 676:4, 676:7, 676:9,	<b>WITNESSES</b> [2] - 620:1, 620:3	
	<b>WOOD</b> [2] - 671:21, 678:3	
	<b>WORDS</b> [6] - 637:17, 653:1, 653:20, 661:20, 668:18, 680:7	
	<b>WORLD</b> [5] - 645:3, 645:7, 645:8, 645:9, 645:12	
	<b>WRITE</b> [1] - 636:19	
	<b>WRITES</b> [1] - 670:23	
	<b>WRITTEN</b> [3] - 652:18, 656:20, 678:7	
		<b>Y</b>
		<b>YARDS</b> [1] - 679:21
		<b>YEAR</b> [3] - 655:5, 671:6, 677:4
		<b>YEARS</b> [6] - 623:1, 623:24, 665:16, 665:21, 666:5, 676:15
		<b>YESTERDAY</b> [3] - 645:16, 655:25, 670:1
		<b>Z</b>
		<b>ZOCH</b> [16] - 621:9, 630:1, 630:22, 638:5, 638:6, 638:7, 638:14, 638:21,